

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

KELLI DENISE GOODE,)
Individually, and also as)
the Personal Representative)
of Troy Charlton Goode,)
Deceased, and as Mother,)
Natural Guardian, and Next)
Friend of R.G., a Minor, and)
also on behalf of all)
similarly situated persons,)

PLAINTIFFS,)

VS.)

THE CITY OF SOUTHAVEN, TODD) CIVIL ACTION NO.
BAGGETT, Individually,) 3:17CV60-DMB-RP
JEREMY BOND, Individually,)
TYLER PRICE, Individually,)
JOEL RICH, Individually,)
JASON SCALLORN,)
Individually, STACIE J.)
GRAHAM, a/k/a WITTE,)
Individually, MIKE MUELLER,)
Individually, WILLIAM)
PAINTER, JR., Individually,)
BRUCE K. SEBRING,)
Individually, JOSEPH SPENCE,)
Individually, RICHARD A.)
WEATHERFORD, Individually,)
JOHN DOES 1-10, BAPTIST)
MEMORIAL HOSPITAL-DESOTO, a)
Mississippi Corporation,)
SOUTHEASTERN EMERGENCY)
PHYSICIANS, LLC, a Tennessee)
Corporation, and LEMUEL)
DONJA OLIVER, M.D.,)

DEFENDANTS.)

ORAL DEPOSITION OF DARRELL COSLIN

Deposition Resources, Inc.
800.295.4109

1 ANSWERS AND DEPOSITION OF DARRELL COSLIN,
2 produced as a witness at the instance of the
3 Defendants, taken in the above-styled and -numbered
4 cause on the 1st day of November, 2017, A.D.,
5 beginning at 9:19 a.m., before Linda J. Webster, a
6 Certified Shorthand Reporter in and for the State
7 of Texas, in the offices of Charles W. Nichols,
8 located at 617 East Lacy Street, Palestine, Texas,
9 in accordance with the Federal Rules of Civil
10 Procedure and the agreement hereinafter set forth.

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REPORTER'S RECORD

Uh-huh = Yes - Affirmative response

Huh-uh = No - Negative response

Quotation marks are used for clarity and do not
necessarily indicate a direct quote.

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A G R E E M E N T S

It is hereby agreed by and between the parties hereto through their attorneys appearing herein that any and all objections to any question or answer herein except as to the form of the question and nonresponsiveness of answers may be made upon the offering of this deposition in evidence upon the trial of this cause with the same force and effect as though the witness were present in person and testifying from the witness stand.

It is further agreed by and between the parties hereto through their attorneys appearing herein that signature of the witness is waived.

P R O C E E D I N G S

DARRELL COSLIN,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. HUSKISON:

Q. Good morning, Mr. Coslin. I'm Berk Huskison. I'm here on behalf of the Southaven defendants in the case filed by Troy Goode to take your deposition. You've been identified as a police tactics expert in the case. Do you understand that's what you're here to testify about today?

A. Yes, sir.

MR. HUSKISON: Before we get started, Mr. Coslin, if we can, I think it would be good for everybody -- everybody attending to introduce themselves for the court reporter to make a record of it.

MR. MCCORMACK: Here live is Kevin McCormack for the plaintiff.

MR. HUSKISON: What we're doing now so that everybody here is introducing themselves and who they represent for the court reporter. All right, guys. Can you hear me?

MR. GASS: Yeah.

1 MR. HUSKISON: What we're doing now,
2 since everybody else is off camera, we are trying
3 to introduce everybody who is listening in to the
4 court reporter so she can record the names of
5 everybody that's participating.

6 All right. Anyone listening on the
7 phone, please introduce yourself to the court
8 reporter.

9 MR. GASS: Ric Gass on behalf of
10 Dr. Oliver.

11 MS. WADDELL: Amanda Waddell also on
12 behalf of Dr. Oliver.

13 MR. JORDAN: Trey Jordan on behalf of
14 Southeastern Emergency Physicians.

15 MR. MCINTOSH: John Mark McIntosh on
16 behalf of Baptist Memorial Hospital of DeSoto.

17 (Exhibit A was marked.)

18 Q. (BY MR. HUSKISON) Okay. We'll get
19 started. As I said earlier, I'm Berk Huskison here
20 on behalf of Southaven. If you would, Mr. Coslin,
21 for the record -- tell me, and I've seen -- we've
22 got your report. I put it in front of you.

23 MR. GASS: We can't hear whoever is
24 asking the questions.

25 MR. HUSKISON: Y'all are just going to

1 have to listen on the phone because we've got to
2 get started, and I don't know what else to do. We
3 can't -- I'm not in charge. I don't know how to
4 get all of this stuff set up.

5 (Break was had from 9:24 a.m. to
6 9:26 a.m.)

7 Q. (BY MR. HUSKISON) All right. Now, you've
8 been designated, Mr. Coslin, as an expert on police
9 tactics in this case, correct?

10 A. That's correct.

11 Q. Are you going to provide -- police tactics
12 is your area of expertise. You're not an expert in
13 medical care or anything like that, correct?

14 A. No, sir.

15 Q. Now, we're talking about primarily an
16 incident with Troy Goode on July 18, 2015, in
17 Southaven, Mississippi, correct?

18 A. Yes, sir.

19 Q. Now, I've seen your report, and I want to
20 go through some of that with you. How many years
21 have you been in law enforcement?

22 A. Coming up on 33 years.

23 Q. And just give me a brief -- in the
24 33 years, I know you worked several years with
25 Dallas --

1 A. Yes, sir.

2 Q. -- the Dallas Police Department. Tell me
3 about what your -- what your experiences were, what
4 were your jobs, and so on, as briefly as you can.

5 A. Well, 33 years isn't brief, unfortunately.

6 Q. Certainly.

7 A. I spent 30 years with the Dallas Police
8 Department. At Dallas, I served as a patrolman, a
9 supervisor, a member of the Dallas SWAT team. I
10 served as a field training officer training new
11 recruits in the field. I served as a narcotics
12 detective for five years. I was assigned to an ATF
13 task force working violent crime -- working on the
14 violent crime task force with them. I have
15 supervised a -- the jail personnel assigned to
16 place -- for the Dallas Police Department to place
17 people in jail, the civilian staff as well as sworn
18 staff in the jail.

19 I worked in communications, and I've
20 been an instructor -- a law enforcement instructor
21 since 1991 and spent the last five years of my time
22 with Dallas as a staff instructor at our in-service
23 training academy where my key role was the teaching
24 of police use of force, search and seizure, those
25 kind of things, coordinating the field training

1 program where we instructed the new FTOs how to be
2 trainers, and various other tasks.

3 Q. Now, you were in Dallas from February of
4 1985 to May of 2015?

5 A. That's correct.

6 Q. Why did you leave the Dallas Police
7 Department?

8 A. Because I retired.

9 Q. And what did you do after you retired?

10 A. I relocated to Palestine, Texas, with my
11 wife, and I began a consulting firm, Coslin
12 Consulting, which I own and operate, to do
13 use-of-force consulting, training, policy review,
14 those sort of things; and also work for the Smith
15 County Sheriff's Office in Tyler, Texas.

16 Q. What is your position with the Smith County
17 Sheriff's Department?

18 A. I am now serving as an administrative
19 supervisor. I'm the administrative superintendent
20 to the sheriff and serve as his public information
21 officer dealing with all media relations.

22 Q. In that role since you've been in Smith
23 County, do you -- do you have duties of going out
24 in the field, being out and about as a regular
25 police officer, or are you mostly inside?

1 A. I did, up until February of this year, and
2 then I took this administrative position where I'm
3 inside the majority of the time.

4 Q. And since you've been a police officer --
5 and I know 31 years -- have you ever been sued
6 before?

7 A. It will be 33 years.

8 Q. 33. I'm sorry. I didn't mean to
9 shortchange you. Again, have you ever been sued
10 before?

11 A. No, sir.

12 Q. All right. Has your city or your county
13 that you work for ever been sued because of
14 something that you did?

15 A. No, sir.

16 Q. Training since 1991, tell me what that
17 would involve. Just give me a little idea of what
18 you do.

19 A. I'm responsible for developing training,
20 coordinating training, and providing training to
21 both new recruits and in-service officers, so
22 Dallas was so large that it divides academies. We
23 had two separate academies. You had a basic
24 academy for all new recruit officers that we
25 trained, and we have approximately 200 recruits in

1 training at any given time, and then you would have
2 our in-service academy that did -- and all of the
3 continuing education for all the officers once they
4 graduate from the academy, and that was to service
5 the 3,600 officer department.

6 Q. As part of that training, did you have any
7 experience in the -- any training with the use of a
8 Taser?

9 A. Yes.

10 Q. What about with the use of a canine?

11 A. A little bit. I was never a canine
12 handler. That's not something that I did, but I'm
13 aware of our canine policies and procedures and the
14 routine of the canine officers, but I wasn't
15 specifically a canine handler.

16 Q. That's not something that -- do you have
17 expertise in that, in your -- in your mind?

18 A. As far as standard police operations, yes,
19 sir.

20 Q. Okay. But you've never trained on canines?

21 A. I've never served as a canine officer.

22 Q. That's kind of a separate training, is it
23 not?

24 A. Yes, sir.

25 Q. Now, in your training, particularly your

1 recent training, does -- is there any specific
2 training for officers dealing with somebody that
3 may have, in this case, a bad trip on LSD?

4 A. Well, it would fall under -- one of the big
5 things in training over the last several years in
6 law enforcement is dealing with excited delirium,
7 and so we're talking about people who may have some
8 kind of a drug or drug-induced psychosis. There's
9 also critical -- critical incident training where
10 we're dealing with -- or our crisis intervention
11 training where we're dealing with people who are --
12 may be mentally unstable either due to
13 psychological reasons or, once again, drug --
14 drug-related psychosis involving that person, so
15 those are the two key studies or -- or training
16 topics that have occurred over the last decade, I
17 guess, that would relate to -- that someone who was
18 on LSD would fall into that category.

19 Q. You have reviewed information on this case.
20 You'd agree with me, Troy Goode was on a
21 drug-induced hallucination of some sort?

22 A. There's no reason to doubt that.

23 Q. Now, were you aware, in reading through
24 what you did, that he also drank alcohol and smoked
25 marijuana during the day?

1 A. I know that his wife, that she -- that he
2 had taken LSD. It's -- it's been several months
3 since I read through this whole document, and I
4 can't specifically recall right now if they said he
5 was on alcohol or marijuana at the same time. I
6 don't recall that.

7 Q. You don't recall -- okay. But you knew, as
8 you said, he was -- something was going wrong with
9 him out there when all of this -- when all of this
10 occurred?

11 A. Through reading through the files and
12 everything, it was apparent that Mr. Goode was
13 having some kind of crisis, yes.

14 Q. Now, one of the other issues in this case,
15 have you ever trained on the use of a four-point
16 restraint?

17 A. Actually, until this case, I've never heard
18 of someone outside of the medical field referring
19 to this type of restraint as a four-point
20 restraint. Over the years, it's been referred to
21 as hog-tying or a hog-tie. There are -- there's a
22 company out there that refers to it as a maximum
23 restraint position. This is the only time that
24 I've actually heard it being referred to as a
25 four-point restraint.

1 Generally, when you hear four-point
2 restraint, we're discussing someone who's either in
3 a bed or gurney that's had all four limbs secured
4 to that person restrained, so we have four points
5 of restraint to the person that's in the bed or
6 gurney.

7 Q. Did you read the deposition of Tom Long,
8 the police chief at the time?

9 A. Yes, sir, I did.

10 Q. Did you see his discussion on that?

11 A. Yes, sir, I did.

12 Q. Okay. And do you have issues with what he
13 was saying?

14 A. Yes, sir, I do.

15 Q. Tell me what your issues are.

16 A. Chief Long, in his deposition, refers to
17 hog-tying as a use of two pair of handcuffs, one to
18 secure the wrist of the individual and another pair
19 of handcuffs used to constrain the feet, the
20 ankles, and securing both handcuffs together where
21 the feet and the hands are basically pulled
22 completely together, putting the individual in an
23 extremely uncomfortable position here.

24 The problem I have with that is
25 handcuffs and leg restraints are two very different

1 tools, and they are very different sizes. The
2 handcuffs are designed to secure the wrist area of
3 an individual. They're much smaller in diameter.
4 There's a very, very small amount of population in
5 the United States that handcuffs will actually fit
6 around their ankles. I actually brought a pair of
7 handcuffs and leg restraints to demonstrate this if
8 you'd like. I just don't care to have my leg
9 restraints seized because I like to keep them.

10 Q. Sure.

11 A. But I can show the difference between the
12 diameter size, and the -- and the problem law
13 enforcement would have trying to put handcuffs on a
14 person's ankle. It's almost impossible to do this
15 unless you're dealing with a very, very small
16 person or a child because of the diameter of the
17 ankle.

18 Q. When you -- the way I understood it, and I
19 believe the way Mr. Long described it, is you had
20 the handcuffs on the hand. You had leg shackles,
21 but they were attached with no give in-between?

22 A. Well, when he first describes it in his
23 deposition, he said he used two pair of handcuffs.

24 Q. Okay.

25 A. He said the difference between hog-tying

1 and the four-point restraint was, hog-tying you
2 used two pair of handcuffs to secure them where
3 there's no give. The four-point restraint, the
4 difference is, there's handcuffs on the wrists and
5 there's leg shackles or leg restraints, or, as you
6 refer to them, leg irons placed on their ankles
7 that have a longer -- approximately a 16-inch long
8 chain in the middle to allow that to be looped
9 around the handcuffs to allow for a little bit more
10 give or room between the suspect and their hands.

11 Q. That allows for movement of the legs to
12 some degree because you're not in a ball?

13 A. It depends -- to some degree, yes, but it
14 depends on the size of the person being secured.
15 Of course, the larger you are, the more difficult
16 it is and the more confining it is. If you try to
17 put me in this, it's going to be extremely
18 difficult, since I'm 6 foot 9, to get my feet and
19 arms together. There's going to be very -- there's
20 not enough slack in the chain to hardly get me
21 together.

22 Q. Let me show you -- we'll mark it as
23 Exhibit A.

24 MR. MCCORMACK: Wouldn't that be B?

25 MR. HUSKISON: That's B, you're right.

1 (Exhibit B was marked.)

2 Q. (BY MR. HUSKISON) What I've shown you,
3 Mr. Coslin, and for the record is a diagram that
4 has been provided in discovery and discussed at
5 other depositions, and it's got, it looks like, an
6 individual, and he's hog-tied in the back of a car;
7 is that right?

8 A. Correct.

9 Q. Okay. And you see how his hands and feet
10 are connected in that picture, correct?

11 A. Yes, sir.

12 Q. And everything is together?

13 A. No, sir.

14 Q. It's not?

15 A. No, sir.

16 Q. Tell me how that's not together.

17 A. This diagram is showing handcuffs being
18 used on the wrists and a leg iron being used on the
19 ankles. If you can see the distance between where
20 the wrist connect and where the shackles are on the
21 back of the ankles here, this -- this distance
22 between these two is the distance that is created
23 (indicating). If you were attempting to put two
24 pairs of handcuffs tied together, the feet and
25 hands would only literally be right on top of each

1 other.

2 So if you -- if you look at the
3 diagram here, you see the distance back here and
4 this -- and this chain going between the -- your
5 restraints here on the ankles and restraints on the
6 hands, this is depicting a leg iron and handcuffs.

7 Q. The pictures -- the diagram shows
8 everything together, though, correct?

9 A. Yes, sir.

10 Q. Okay. I'm going to show you -- this was
11 another exhibit. We'll mark it as Exhibit C.

12 (Exhibit C was marked.)

13 Q. (BY MR. HUSKISON) And this was an exhibit
14 that has been used in depositions. I think it may
15 have been Exhibit 24 in the group of exhibits we
16 did early on, and this is an actual picture of Troy
17 Goode at the scene. And it's not a great picture,
18 but it is a picture -- you can see that he is lying
19 flat down on a gurney, correct?

20 A. Yes, sir.

21 Q. His head is -- it looks like it's sideways.
22 You can barely see that, but you can see his head
23 laying down, correct?

24 A. Yes, sir. I can tell where his head is
25 supposed to be.

1 Q. Okay. And then his arms are behind him.
2 Do you see that?

3 A. Yes, sir.

4 Q. And then you see at least one of his legs
5 is up?

6 A. Yes, sir.

7 Q. And it's hard to do distance on here, but
8 there is some slack in there from his hands back to
9 his feet, correct?

10 A. From one of his feet, right. One is
11 forward, and one is more to the rear.

12 Q. And they're kind of -- it looks like his
13 feet are crossed a little bit there. That's the
14 back of his shoe there?

15 MR. MCCORMACK: Object to the form,
16 Berk. Was that a question?

17 MR. HUSKISON: I want to make sure he
18 understands what he's looking at. That is the back
19 of his shoe, I believe, right there.

20 THE WITNESS: So...

21 Q. (BY MR. HUSKISON) He's got his legs
22 crossed, and one of them is sticking straight up,
23 correct?

24 A. You've got -- you've got -- it looks like
25 his left leg is up and to the rear, and his right

1 leg may be bent forward to an extreme forward
2 position.

3 Q. Okay. And his knees are on the gurney?

4 A. Correct.

5 Q. Okay. Does this look -- this looks like --
6 we're looking -- thinking back to what Tom Long
7 testified in his deposition, this is the restraint
8 he was trying to describe?

9 MR. MCCORMACK: Object to the form.
10 Which -- which restraint? We've already discussed
11 two he discussed.

12 Q. (BY MR. HUSKISON) The restraint, which Tom
13 Long refers to as a four-point restraint --
14 four-point restraint, where you've got some give.

15 A. Uh-huh.

16 Q. Where you've got a chain wrapped around to
17 allow some give in the legs, that depicts what he
18 was describing in his deposition; is that correct?

19 A. That is correct, yes, sir.

20 Q. Okay. And you see, he's got his legs where
21 he can move them a little bit. You see one of them
22 up, as a matter of fact, backwards up?

23 A. Yes, sir.

24 Q. And his body is laying flat on the gurney?

25 A. Yes, sir.

1 Q. Okay. Now, you mentioned that you have
2 never seen any literature, I think you said this in
3 this report, that referenced a four-point
4 restraint. Is that what I understood you to say?

5 A. Yes, sir.

6 Q. Are you familiar with the International
7 Association of Chief of Police manual?

8 A. I'm -- I'm familiar with the association.
9 I'm not familiar with any publication they put out
10 regarding a four-point restraint.

11 Q. So you have not reviewed any of their --
12 anything from them that references a four-point
13 restraint?

14 A. No, sir, I'm not.

15 Q. Now, we talked about Mr. Goode had ingested
16 marijuana at some point during that evening. Do
17 you remember what effect that had on him? He was
18 erratic, correct?

19 A. Marijuana or LSD?

20 Q. Excuse me. LSD. I'm sorry.

21 A. Okay.

22 Q. Do you remember it having an erratic -- he
23 acted erratically after taking the LSD?

24 A. In the depositions I reviewed, Officer
25 Baggett and Officer -- is it Scallorn?

1 Q. Scallorn.

2 A. Scallorn. They make comments about
3 Mr. Goode's behavior, talking about him running
4 around in circles like a puppy dog, that he was
5 mumbling incoherently, that he was acting very
6 erratic.

7 Q. Okay. Do you recall, is that consistent
8 with what you would know somebody that's having a
9 bad trip on LSD is doing?

10 A. It's possible. I mean, there could be --
11 there could be many causes of this behavior,
12 whether it's a mental illness issue or a
13 drug-related issue. Just being an officer showing
14 up on the scene, seeing that kind of behavior, I
15 wouldn't be able to say that guy is on LSD, no.

16 Q. It's something that you might not recognize
17 right away?

18 A. Right. You know there's some kind of
19 crisis or issue going on with the individual, but
20 not necessarily that you could say that was an
21 LSD-induced trip.

22 Q. Now, Mr. Coslin, when you're reviewing
23 information and taking a look at a situation, it's
24 important to note everything that goes on in the
25 situation that you can find, anything you could

1 find out, like, the facts. For example, in an
2 excessive force, how the arrestee was acting?

3 A. Correct.

4 Q. And use of force, a lot of times, is
5 dictated and controlled by how they act. You may
6 have to do more if you can't get them under
7 control. You would agree with that?

8 A. Yes.

9 Q. Okay. In other words, if you can't get
10 them under control, you step up the force needed to
11 get them under control? I may be saying that
12 clumsily.

13 A. That's okay. As -- as stated by, you know,
14 Graham versus Connor in the Supreme Court decision,
15 the force must be reasonable and -- and only the
16 force necessary to -- to apprehend or control a
17 suspect or subject that we're dealing with at this
18 point in time.

19 Q. The significant issue there for officers as
20 far as what they're -- what they're trying to do is
21 gain control?

22 A. At some point in time during this
23 altercation, yes, they did attempt to gain control
24 of Mr. Goode.

25 Q. And is that consistent with what police

1 officers do all over the country when they're --
2 when they're met with some situations, they try --
3 if they're trying to gain control -- they attempt
4 to gain control of a suspect?

5 A. Well, I mean, if we're referring to an
6 arrest situation where the decision has been made
7 to make an arrest and you're going to have to place
8 this person in custody, absolutely, you're going to
9 take control of the person. So, I mean, if we're
10 going to be specifically talking about an arrest
11 situation, yes.

12 Q. Now, let's look for a second at your
13 report -- for a few minutes at your report, and I
14 want to go down to the bottom of page two, and then
15 coming up -- well, actually, let's go to
16 page three. In that, it's Section 5 of your
17 report. You're going through and you say the
18 following -- looking at Section 5, the following
19 reflects my understanding of the incident. Is this
20 a factual summary of what you understood what
21 occurred out there on that evening?

22 A. I'm sorry?

23 Q. Make sure. Section 5. It's pages 2
24 through 4.

25 A. Okay. Section 5, facts and data

1 considered, bottom of page two?

2 Q. Yes, sir.

3 A. Okay.

4 Q. Is that section of summary of the facts
5 that you found out there on the scene from your
6 review?

7 A. This is -- as I stated, this is a -- a
8 brief account of the incident after reviewing the
9 depositions, the reports, statements that were
10 made. This is just a brief description of the
11 facts as they were described in those accounts of
12 this incident.

13 Q. Okay. In looking at -- turn to the top of
14 page three.

15 A. (Complying.)

16 Q. The first paragraph there, it looks like
17 you note that Mrs. Goode was driving along Goodman
18 Road. Mr. Goode said he could not stand the
19 confines, and then Ms. Goode pulled into a parking
20 lot at which time Mr. Goode exited the vehicle and
21 began walking and running. Do you remember that
22 fact?

23 A. Yes, sir.

24 Q. You indicated in your report of the things
25 you reviewed, you reviewed witness statements?

1 A. Yes.

2 Q. Do you recall one of the witnesses saying
3 or indicating that Mr. Goode, in fact, got out of
4 the car before she pulled into the parking lot?

5 A. I -- not specifically, no.

6 Q. You don't remember that?

7 A. I would have to -- I'm not saying it's not
8 there. Like I said, it's been nearly a year since
9 I read some of these documents. There's a ton of
10 documents, but that specific statement, I don't
11 remember exactly that being said, no.

12 Q. And that's something that if you would have
13 reviewed and seen, that would be something -- a
14 pretty important fact that you would note in your
15 factual summary?

16 A. Not necessarily.

17 Q. You understand the distinction, Mr. Coslin,
18 between getting out on the roadway -- on the side
19 of the road and before you get into a parking lot?

20 A. Yes, sir.

21 Q. It's a little more dangerous if you get out
22 on the roadway, correct?

23 A. Yes, sir.

24 Q. Well, let's look at some statements that
25 you reference in your report, if I can get to them.

1 (Exhibit D was marked.)

2 MR. HUSKISON: Here you go.

3 Q. (BY MR. HUSKISON) We've marked as
4 Exhibit 4 [sic], Mr. Coslin, a statement of Alan
5 Wilson. Is that one of the statements that you
6 reviewed?

7 A. Yes, sir, I believe it is.

8 Q. If you look back on your review list, it's
9 No. 13 back in your report, one of your documents
10 that you reviewed. In looking at what Mr. Wilson
11 observed, he observed -- why don't you read the
12 second and third sentences if you can find them on
13 there. "We noticed a silver or gray Volkswagon."
14 Start there.

15 A. "We noticed a silver or gray Volkswagon
16 pulling into the eastbound emergency lane. Because
17 of heavy traffic on Goodman, we had to wait some
18 time to pull into the drive. We observed the two
19 occupants in the Volkswagon looking like they were
20 arguing."

21 Q. Go ahead.

22 A. I'm not sure what that word is.

23 Q. Twice, I think.

24 A. Is it twice? "The driver pulled back onto
25 Goodman dangerously missing traffic. The passenger

1 then bolted out of the car and started darting in
2 different directions onto the grass."

3 Q. Go ahead.

4 A. "As I finally started to turn in, the car
5 started toward the drive as well as the man on the
6 grass. The car stopped to let me through. After
7 parking the car and entering Rio Grande [sic], I
8 continued to watch this. The woman had parked her
9 car in the driveway near the sign. There seemed to
10 be more arguing. The driver's door was open with
11 the driver still seated. Two or three times, the
12 man kicked or hit the driver as if he was trying to
13 move her out of the way of the driver's seat. He
14 then began running throughout the parking lot. The
15 driver moved the car to the parking lot, and she
16 got out. More verbal confrontation."

17 Q. Okay. In your report, when you discuss the
18 facts, you don't mention anything about Troy
19 Goode's behavior that is reported there in that
20 statement, do you?

21 A. No. This behavior was consistent with the
22 same reports that Ms. Goode makes and Officer
23 Baggett makes, so to be repetitive and to quote
24 every statement was not necessary here. This was,
25 like I said, a brief description of the facts that

1 I came up with from reading all of these different
2 depositions. There was, obviously, a problem with
3 Mr. Goode in the vehicle. Mrs. Goode was trying to
4 get to the side of the road or to get to a parking
5 area to deal with him. He was in and out of the
6 vehicle.

7 Here in this statement, it says she
8 pulled to the side of the road. At the time, he
9 exited the car while it was stationary parked in
10 the emergency lane and ran to the grass, not the
11 traffic. So this confirms exactly what I'm saying
12 here that there was a disturbance. Ms. Goode did
13 pull over. He got out of the car and was running
14 around the parking lot and grassy area outside of
15 this restaurant off Goodman Road.

16 Q. Did you not consider it significant enough
17 that a gentleman -- that Mr. Goode was getting in
18 and out of the car on the side of the roadway to
19 put that in your report? I don't see that in here.

20 A. No, sir. And -- and -- and another deal
21 we're talking about here is this occurred prior to
22 the police arrival, so we know that Mr. Goode was
23 having a crisis, that Mr. Goode did get out of the
24 vehicle, that Ms. Goode recognized this and was
25 attempting to pull over and stop to deal with

1 Mr. Goode. The exact location of where Mr. Goode
2 exited the vehicle was really not important in
3 determining whether or not the officers use of
4 force in this case was reasonable or not.

5 Q. Now, that is conduct of the person they
6 were trying to arrest, correct? That's conduct --
7 that's Troy Goode?

8 A. That's correct.

9 Q. Okay. Now, let's look at another
10 statement. We'll mark it as -- what are we to?

11 THE COURT REPORTER: E.

12 (Exhibit E was marked.)

13 Q. (BY MR. HUSKISON) This is a statement,
14 Exhibit E, of Amanda Anderson, which she's
15 describing what she observed. Do you remember
16 reviewing that statement?

17 A. Yes, sir.

18 Q. Okay. Does it generally talk about a
19 disturbance and a wife trying to control her
20 husband?

21 A. Yes, sir.

22 Q. And it was such a deal for her that she
23 called 911 on two occasions?

24 A. That's correct.

25 Q. You don't mention that in your summary of

1 facts, either, do you?

2 A. I do not refer to her statement
3 specifically. I do make clear that there was a
4 disturbance. Ms. Goode, once again, pulled over.
5 Mr. Goode got out of the car. The police were
6 called. These are the facts which I place here
7 in -- actually, I do. Witness at the location
8 believed that some type of disturbance was
9 occurring and at that -- and at approximately
10 7:45 p.m. called 911.

11 Q. So you mention in your report about the 911
12 call?

13 A. Absolutely.

14 Q. And she was very specific about what she
15 observed in that report and reported to 911?

16 A. Yes, sir.

17 Q. You'd agree with me that's pretty
18 significant behavior on the part of Mr. Goode in
19 and around the roadway?

20 MR. MCCORMACK: Object to the form.

21 A. I would agree that Mr. Goode, at that time,
22 was in crisis, that there was several witnesses to
23 this disturbance, and it was enough of a
24 disturbance that it caused people to call 911, yes,
25 sir.

1 Q. (BY MR. HUSKISON) Now, Exhibit F, let's
2 look at one more statement, Lisa Smith.

3 (Exhibit F was marked.)

4 Q. (BY MR. HUSKISON) Do you remember
5 reviewing Exhibit F, Ms. Lisa Smith's statement?

6 A. Yes, sir.

7 Q. In her statement, it talks of Mr. Goode
8 going directly toward a police car where the canine
9 was, correct?

10 A. Yes, sir.

11 Q. She references the officer held the canine
12 and had his hand up to the individual. Do you see
13 that down in the middle?

14 A. Yes, sir.

15 Q. It looked as if the officer was trying to
16 calm the individual down. Do you remember that?

17 A. Yes, sir.

18 Q. And she references aggressive and agitated
19 behavior of Troy Goode?

20 A. Uh-huh. Yes, sir.

21 Q. Okay. And then the last statement from an
22 independent witness, Vanessa Johnson, it's a pretty
23 short one.

24 (Exhibit G was marked.)

25 Q. (BY MR. HUSKISON) There's not a whole lot

1 to this one, but she references -- I think she's
2 referring to Mr. Goode coming into Subway and
3 asking for water and he turned and left?

4 MR. MCCORMACK: Object to the form.

5 A. Yes, sir.

6 Q. (BY MR. HUSKISON) You read that statement?

7 A. Yes, sir.

8 Q. She then states in this second sentence,
9 "He ran to the highway and jumped on a moving car."

10 A. Yes, sir.

11 Q. Do you remember reading that?

12 A. Yes, sir.

13 Q. And they were chasing by the time the
14 police arrived. Down there in the next-to-last
15 sentence. Do you remember seeing that?

16 A. Yes, sir.

17 Q. And she mentions -- again, she's the second
18 one that mentions he let the -- Troy Goode himself
19 went and opened the canine door?

20 A. Yes, sir. I don't believe that fact is in
21 question.

22 Q. And these are statements that you reviewed
23 as part of your report?

24 A. Yes, sir.

25 Q. Okay. Now, you indicate, Mr. Coslin, if

1 you can pull your report up, on page -- I think
2 it's two different places -- 5 and 7, let me find
3 it for you so I can point you to it. That
4 Mr. Goode did not -- you conclude that he did not
5 pose a danger to himself or anyone else. Is that
6 what your conclusion was?

7 A. Right. The last paragraph, starting on
8 page four, it says, "It appears beyond dispute that
9 Mr. Goode was, in fact, under the influence of LSD
10 and did, in fact, cause a minor disturbance
11 requiring a police response, but at no time does it
12 appear that Mr. Goode was a danger to the officers
13 or anyone present at the location. No physical
14 action was taken by Mr. Goode to assault anyone,
15 nor was any verbal threat made by him. Mr. Goode
16 was unarmed, which was apparent as it was still
17 daylight, and he was wearing light summer
18 clothing."

19 So I didn't say he wasn't a danger to
20 himself. I said he was not a danger to anyone else
21 present, the officers or any civilians at the
22 scene.

23 Q. Okay. You would agree that he was a danger
24 to himself, the way he was acting?

25 A. I would agree to this, that he could have

1 been a danger to himself if his actions had
2 changed. Mr. Goode, from all the documentation
3 I've reviewed, made no attempt to enter traffic.
4 He made no attempt to assault a citizen at the
5 location. He made no attempt to assault the
6 officers at the location. As they described in
7 their own statements, he was running back and forth
8 between the parking lot and a grassy area where
9 they said he was running in circles and talking
10 incoherently.

11 Q. Do you believe that officers have to wait
12 until something bad occurs, some physical harm
13 occurs, before they act?

14 A. It depends on the circumstances. Can you
15 be more specific, please?

16 Q. Well, in this case, Mr. Goode was running
17 up and down along in a grassy area along a busy
18 intersection -- busy road. Do they have to, for
19 example, wait until he runs out in the middle of
20 the road and causes an accident before they can
21 consider him a danger to others?

22 MR. MCCORMACK: Object to the form.

23 A. The way I respond to that is, Officer
24 Baggett, in his deposition, talks about he was the
25 first officer at the scene. He observes Mr. Goode.

1 Through his behavior and physical description, he
2 determines that that is the person involved in the
3 disturbance, which he received a 911 call for.

4 Mr. Baggett -- Officer Baggett at that time does
5 not see a need to approach Mr. Goode. He, in turn,
6 approaches Mrs. Goode and discusses the situation
7 with him [sic].

8 So by his initial response, it did not
9 appear that Officer Baggett was concerned
10 immediately for Mr. Goode, that he was in immediate
11 danger to run into traffic or assault any other
12 bystander that might be there. He took no action
13 to stop Mr. Goode's actions at that time. So by --
14 by going by Officer Baggett's statement, I would
15 assume since he felt no immediate threat posed by
16 Mr. Goode, that there, in fact, was no immediate
17 threat that Mr. Goode had imposed on anyone. They
18 made no attempt to stop traffic on -- is it Goodman
19 Road.

20 Q. Correct.

21 A. They had multiple officers responding to
22 location. They had the ability to stop traffic.
23 They said it was a high volume of traffic. There
24 was a concert nearby. They could have simply
25 stopped the cars, stopped traffic, until they got

1 Mr. Goode contained, but no one at the scene saw it
2 necessary to do that. So just trying to understand
3 their statements and what they said and trying to
4 understand the situation as they saw it, I can't
5 see that there was an immediate danger to Mr. Goode
6 running around in this grassy area.

7 Q. You would agree with me that it's a
8 judgment call on the officers that arrive on the
9 scene and observe what's going on as to whether
10 they try to contain the individual or stop traffic.
11 That's a judgment call. You would agree with that,
12 wouldn't you?

13 A. Yes, sir.

14 Q. Okay. And in this case, what the officers
15 obviously decided to do was try to contain or
16 control Mr. Goode?

17 A. And -- eventually, yes. They tried to
18 contain him.

19 Q. Now, do you recall Mr. Goode came by where
20 Officer Baggett was talking with Kelli Goode?

21 A. Yes.

22 Q. And they had some brief discussion, and he
23 took off running again, correct?

24 A. He asked him if he was -- I think Officer
25 Baggett asked him if he was okay, and Mr. Goode

1 said no, I'm not, and then turned and ran away
2 again.

3 Q. Okay. Initially, Officer Baggett was
4 trying to talk with him?

5 A. He did have a -- when he was initially
6 trying to talk to Mrs. Goode. When Mr. Goode came
7 up to them, he did speak to him, yes. Mr. Goode
8 then left, and at that point in time, if I remember
9 correctly, Officer Baggett made no attempt to go
10 after him or contain him at that point in time. He
11 continued his conversation with Mrs. Goode.

12 Q. Other officers were arriving on the scene
13 at that point, correct?

14 A. Somewhere in that short timeline, yes. I
15 don't remember exactly the timeline from -- or
16 Officer Baggett's conversation with Mr. Goode and
17 the second officers arrival. I can't tell you.

18 Q. Do you remember the officers -- the whole
19 interaction with officers and Mr. Goode was about a
20 12 minutes feed, 7:49 to 8:01?

21 A. Until the time he was actually in custody
22 and handcuffs?

23 Q. Yes.

24 A. Yes.

25 Q. Okay. So it was a short time period?

1 A. Well, I mean, that's actually a lengthy
2 time period.

3 Q. 12 minutes is lengthy?

4 A. Yes. Well, I mean, if you think about a
5 confrontation, so to speak, whether it's a -- a
6 physical confrontation, which may last a matter of
7 seconds, to a -- a deadly force confrontation,
8 which may last less than a second, so when we are
9 talking about a 11- or 12-minute interaction with
10 somebody, that's a fairly lengthy time, yes, sir.

11 Q. In particular, it's a short time when
12 you're considering they're trying to catch somebody
13 that's running around and evading them. That's not
14 that long to try and get somebody under control, is
15 it?

16 MR. MCCORMACK: Object to the form.

17 A. Well, I'm not going to run around for
18 12 minutes trying to catch somebody. That's an
19 extremely long time to be in physical exertion.

20 Q. (BY MR. HUSKISON) Sure.

21 A. So I would have to disagree with you that
22 this is a short amount of time. In a -- in a
23 police incident, especially when you're trying to
24 control somebody, 11 to 12 minutes is a lengthy
25 part of time to be in some kind of a struggle with

1 somebody to try to control them.

2 Q. Now, you mentioned that one of the reasons
3 you did not believe Troy Goode was a danger to
4 others is because he wasn't running in and out of
5 traffic?

6 A. He didn't, no.

7 Q. He was running in and around in a parking
8 lot, correct?

9 A. Correct.

10 Q. Would that not create a danger?

11 A. I don't know how -- he was -- I don't see
12 right offhand how running through this parking lot
13 is necessarily a danger to the officers or anyone
14 else. Once again, he was not threatening or
15 assaultive in any manner. He wasn't visibly armed
16 with a weapon, so to have a person who is basically
17 in crisis, let's say, if we're going to refer to
18 like crisis intervention training, this person --
19 the officers arrive. They don't know until Officer
20 Baggett is told that Mr. Goode has taken LSD. He
21 doesn't know what's causing this disturbance. He
22 just sees this person that's acting irrationally,
23 that's -- that is running in circles and talking
24 incoherently.

25 Q. Well, now, you remember he got a 911 call

1 about a domestic issue?

2 A. Absolutely. So -- so -- but he shows up
3 and what he sees is -- and he describes it as this
4 person running in circles, speaking incoherently.
5 It was -- and it wasn't even enough that he would
6 immediately address Mr. Goode. He went to
7 Mrs. Goode to talk to her. Even when Mr. Goode
8 approached, he wasn't alarmed. He didn't draw his
9 weapon to defend himself. He doesn't pull out a
10 Taser. He just tried to have a conversation with
11 him.

12 Q. That would be consistent with trying to
13 calm a situation?

14 A. But he asked me if this person presented a
15 danger to others. If -- if Mr. Goode was an
16 apparent danger to others, you would expect Officer
17 Baggett's response to be that of a different
18 nature. He didn't -- he didn't seem disturbed by
19 the approach of Mr. Goode to himself. He didn't
20 say that he took any kind of defensive position,
21 that he didn't create distance between him and the
22 suspect. He didn't use any other tool to defend
23 himself against this approach, so just reading his
24 own statement, in no way does Officer Baggett
25 communicate that -- that he observed Mr. Goode as

1 being a danger.

2 Q. All of what you're talking about, to stop
3 Officer Baggett's conduct, you're talking about
4 when he initially arrived?

5 A. Yes, sir.

6 Q. Correct?

7 A. Okay. Because this is important. Officer
8 Baggett arrives, and everything else right now
9 until he gets there is basically based on a
10 uncorroborated 911 call. He has information
11 there's a disturbance. He doesn't know who's
12 involved. He doesn't know what's really going on,
13 so then when Officer Baggett arrives, he has to
14 make his decisions based on his personal
15 observations. His decision to use force. His
16 decision not to. His decision to communicate with
17 Mrs. Goode or Mr. Goode or to talk to any other
18 witness there on the parking lot, his decision to
19 stop traffic or not stop traffic. Those are all
20 based on his personal observations at the scene
21 from the time he arrives until the time Mr. Goode
22 is taken into custody.

23 Q. And those are all discretionary decisions
24 that officers have to make all of the time?

25 A. Absolutely.

1 Q. Okay.

2 A. Absolutely. So my point is, Officer
3 Baggett arrives knowing he's coming to a
4 disturbance call. He sees the individual who he
5 believes is part of the disturbance. He sees
6 Mrs. Baggett [sic]. He chooses to approach
7 Mrs. Baggett. He doesn't do anything to secure --
8 I'm sorry -- Mrs. Goode. He doesn't do anything to
9 secure Mr. Goode. He doesn't do anything to stop
10 traffic. He doesn't do anything to tell people to
11 go back into the restaurant, clear the parking lot.
12 He doesn't articulate any facts that would lead me,
13 reading his statement, to believe that Mr. Goode
14 posed an immediate threat or danger to anyone.

15 Q. You realize, too, that other officers were
16 called and coming to the scene?

17 A. Absolutely.

18 Q. Officer Baggett was the first officer
19 there?

20 A. That's correct.

21 Q. And as he comes into the parking lot, if
22 Ms. Baggett [sic] is the first one he sees, that
23 might be where he would go?

24 A. Once again --

25 Q. We don't even know -- you don't even know

1 and we don't know where Troy Goode was at that
2 time, where was he running at this time. When he
3 comes in, he sees Ms. Goode. He wants to talk to
4 her and find out what's going on. That's pretty
5 consistent with how he should be responding to
6 this, correct?

7 MR. MCCORMACK: Object to the form.

8 A. There are exhibits that show a diagram of
9 the location where Officer Baggett explains where
10 he was, where he parked his vehicle, where he
11 observed Mr. Goode, and he addresses the fact that
12 he did see Mr. Goode but he chose to approach
13 Mrs. Goode. Now, you asked -- you said a while ago
14 that officers have discretion. They chose what to
15 do and what force is applied. If I've arrived on
16 location, and my complainant in this case would be,
17 you know, Mrs. Goode here, is over here trying to
18 flag me down, but yet, there's an immediate threat
19 over to my right that I need to address, I'm not
20 going to go talk to her and find out what's going
21 on. I'm doing to deal with the immediate threat,
22 so you're right.

23 Officers do have discretion, so when
24 Officer Baggett arrived on location, he observed
25 what was going on in the parking lot. He observed

1 both Mr. and Ms. Goode. He made the observation
2 and then made the decision, his discretion, to
3 approach Mrs. Goode and discuss with her what was
4 going on, which, once again, shows that there was
5 not enough of a visible threat to anyone that
6 Officer Baggett needed to address the threat versus
7 talking to Ms. Goode.

8 Q. (BY MR. HUSKISON) So the way I understand
9 you, your testimony, is that at that point when he
10 arrived on the scene, you see no reason that
11 Officer Baggett or any other officer should be
12 trying to get Mr. Goode under control?

13 MR. MCCORMACK: Object to the form.
14 Misstates the testimony.

15 MR. HUSKISON: Well, I think that's
16 what he's saying.

17 A. I'm saying, reviewing the statements of
18 officers involved and their articulation of what
19 was going on there, and that's all I have to go by
20 because you and I weren't present at the time of
21 this disturbance, so I can only relate to the facts
22 that they relay to me in their own words. Officer
23 Baggett at no time articulates in any way that he
24 felt Mr. Goode was a danger. And -- and so that
25 would lead me to believe, as a reasonable officer,

1 that he didn't feel at that time Mr. Goode was a
2 danger that he needed to address.

3 Now, then, the second officer arrives.
4 Now we have two officers. We've got one officer
5 talking to Mr. Goode -- or Mrs. Goode. The second
6 officer, the cover officer, gets there. He sees
7 the disturbance. He sees Mr. Goode. No one is
8 dealing with Mr. Goode. Would it be unreasonable
9 for him to approach him and talk to him at that
10 point in time? Absolutely not. But when we're
11 talking about the first officer showed up and what
12 his initial decision was, that leaves me with a
13 view of how he felt towards Mr. Goode as being a
14 danger.

15 Q. (BY MR. HUSKISON) After he came --
16 Mr. Goode -- Officer Baggett talked to Kelli Goode,
17 Mr. Goode came by, they were in the parking lot,
18 correct?

19 A. I believe so, yes. They were somewhere in
20 the parking lot.

21 Q. At that point, Troy Goode took off running
22 or whatever he was doing again out in the grassy
23 area toward the road, correct?

24 A. I -- I'm not -- I would have to look at the
25 deal. I think there's roads all around.

1 MR. HUSKISON: Let's mark our next
2 exhibit.

3 (Exhibit H was marked.)

4 Q. (BY MR. HUSKISON) What we're looking at is
5 Exhibit H, and that's the overhead photo of the
6 scene that's been used. I think it was Exhibit 30
7 in other depositions. You see, Mr. Coslin, I think
8 where the circle is -- the big circle in the
9 parking lot is where Kelli Goode and Officer
10 Baggett were discussing things?

11 MR. MCCORMACK: Object to the form.

12 Q. (BY MR. HUSKISON) That's what I recall.
13 Do you know that to be where they were?

14 A. I remember reading in Officer Baggett's
15 deposition where he was asked to mark on the
16 diagram where his location was. If I remember
17 correctly, he was No. 1 with a circle behind it,
18 which is right there in the parking lot just, I
19 guess, south of No. 4, which is a large circle by
20 the car -- circle the cars.

21 Q. Okay. Second row.

22 A. Okay.

23 Q. Right?

24 MR. MCCORMACK: For the sake of the
25 record, is this -- which diagram is this because we

1 have multiple markings depending on the diagram?

2 MR. HUSKISON: This was Exhibit 30 in
3 the deposition -- I mean, it's an overhead diagram.

4 MR. MCCORMACK: Is this the deposition
5 of Baggett, Exhibit 30?

6 MR. HUSKISON: I think we used it in
7 every -- most every one of their depositions.

8 MR. MCCORMACK: I know, but the
9 markings are different between them, so I'm trying
10 to make sure I've got it straight, which deposition
11 this came from.

12 MR. HUSKISON: I don't -- it says
13 Exhibit 30 on it. I don't know.

14 MR. MCCORMACK: All right.

15 MR. HUSKISON: I just want to talk to
16 him a little bit about the diagram and the -- and
17 the distance and whatnot.

18 MR. MCCORMACK: All right.

19 MR. HUSKISON: Okay.

20 Q. (BY MR. HUSKISON) Now, after Mr. Goode
21 talked with Officer Baggett and Kelli, he went
22 toward the roadway, correct?

23 A. He said he ran back into the grassy area,
24 so I'm assuming this grassy area is here. Is this
25 north? The top of the photograph is north?

1 Q. Yes, between there and the road.

2 A. So I would -- I would assume, which I don't
3 know for a fact, but I would assume this grassy
4 area here north of the parking lot between the
5 roadway is the area where Mr. Goode was occupying
6 most of his time.

7 Q. Okay. Where he was running in circles
8 and -- incoherently?

9 A. Yes.

10 Q. And I think that's consistent with what
11 everybody talked about. There's not a great deal
12 of grassy area there, is it?

13 MR. MCCORMACK: Object to the form.

14 Q. (BY MR. HUSKISON) Let me ask it first.
15 There's not a great deal of grassy area there as
16 you look down at that photo, correct?

17 MR. MCCORMACK: Object to the form.

18 Q. (BY MR. HUSKISON) Are you trying to
19 measure?

20 A. Yeah, I'm trying to. To answer your
21 question, I mean, it looks like it may be 75- to
22 80-foot wide from north to south.

23 Q. Okay. Fair enough. I don't have the exact
24 dimensions.

25 A. Okay.

1 Q. And when the next officer arrived, he came
2 driving up on Goodman Road and pulled onto the
3 emergency shoulder of the road. Do you remember
4 that?

5 A. Yes, sir.

6 Q. And that was Scallorn, that was the canine
7 unit?

8 A. Is that -- is that No. 2 here on the
9 diagram?

10 Q. Yeah. I think it is, but anyway, right in
11 that range, in that area?

12 A. Yes.

13 Q. He pulled between the road and Mr. Goode?

14 A. Okay.

15 MR. MCCORMACK: Object to the form.

16 Q. (BY MR. HUSKISON) When you talk about --
17 you agree that it's a dangerous situation when
18 you've got somebody that's having a bad trip on LSD
19 running incoherently and erratically around a
20 grassy area in that close proximity, assuming it's
21 25 yards, whatever it is, in that close proximity
22 to a roadway?

23 A. It can be, yes.

24 Q. Now, the witness statements.

25 A. Uh-huh.

1 Q. I want to make sure I'm clear with you on
2 it. He exited the vehicle on the roadway. That's
3 what one of the witnesses stated, correct?

4 A. Well, to be exact, in that statement you
5 gave me, the witness said they pulled to the
6 emergency shoulder -- to the shoulder here. He was
7 a passenger in the car, and he exited while they
8 were parked on the emergency shoulder, so it
9 appears that the car wasn't moving at the time, and
10 they had left the roadway and were sitting on the
11 shoulder, and he would have exited immediately into
12 the grassy area and not onto the roadway.

13 Q. He was -- Goode was moving in and out of
14 cars in the parking lot at least?

15 A. Okay.

16 Q. Correct?

17 A. Yes, sir.

18 Q. The 911 call was about a domestic issue
19 with his wife. Do you remember that was what they
20 reported on the 911 call?

21 A. Yes, sir.

22 Q. He's running in circles erratically,
23 whatever, everybody has described how he was
24 running. He was running all about in that grassy
25 area close to a busy road?

1 A. That's correct.

2 MR. MCCORMACK: Object to the form.

3 Q. (BY MR. HUSKISON) When officers did get
4 him subdued in some fashion, he's still kicking
5 them. Do you remember officer testimony about
6 that?

7 A. Yes, sir.

8 Q. Spitting at them?

9 A. Yes, sir.

10 Q. Thrashing around on the ground?

11 A. Yes, sir.

12 Q. He went and opened a door, a canine unit
13 door, and let a dog out. Do you remember that?

14 A. Yes, sir.

15 Q. And once the dog was subdued by the canine
16 officer, he took off running again. The dog chased
17 him, and he punched the dog to such a degree that
18 the dog stood down. Do you remember that?

19 MR. MCCORMACK: Object to the form.

20 A. I -- I agree that that's Officer Scallorn's
21 statement, that he stated that in his deposition.
22 There's -- there's no evidence that that occurred,
23 but that's -- I have no reason to not believe his
24 statement.

25 Q. (BY MR. HUSKISON) Okay. The evidence that

1 occurred is the statement of the officer, right?

2 A. Well, there's no corroborating evidence to
3 the fact that Mr. Goode struck the dog. We do have
4 evidence that shows that Mr. Goode suffered a dog
5 bite, but Officer Scallorn states that Mr. Goode
6 was able to knock the dog off of him, and the dog
7 wouldn't reengage.

8 Q. Okay.

9 A. But as I said, there's no other
10 corroborating evidence to that. It's just his
11 statement alone.

12 Q. Even with all of those factors, your report
13 states that you don't believe Mr. Goode was a
14 threat to officers or to others?

15 A. That's correct.

16 Q. And you stand by that today?

17 A. Absolutely.

18 Q. And you don't believe -- do you believe --
19 I think you said earlier, you do understand he was
20 a threat to himself?

21 A. Mr. Goode was in crisis. There's no doubt
22 he was in crisis. The officers clearly observed he
23 was in crisis. Not knowing what caused the crisis,
24 is there a possibility Mr. Goode could have run
25 into traffic? Absolutely. My only concern with

1 that is, look, you said officers have the ability
2 to make decisions. Officer Scallorn parked his
3 vehicle between Mr. Goode and the roadway which
4 limited his -- it somewhat limited his ability to
5 access the road and access traffic.

6 But both officers now arrive on the
7 scene and realize they have a person who is
8 basically nonresponsive to verbal commands, he's
9 rambling and running around incoherently, but yet,
10 they still don't see the traffic as a danger enough
11 to stop the traffic to prevent Mr. Goode from
12 getting struck by a car because he may -- as you
13 stated earlier, it took 11 or 12 minutes to bring
14 Mr. Goode under control. This is a lengthy amount
15 of time.

16 They had more than enough time to stop
17 traffic on the roadway if that traffic was such a
18 danger that Mr. Goode could have been injured by a
19 car, but they didn't take that action. So all I
20 can -- all I can take from that is, they had the
21 ability to do it. It was a simple task. They
22 didn't do it, so the officers there must not have
23 seen the traffic and Mr. Goode's relation to that
24 roadway as being a danger.

25 Q. You've heard each testify that what they

1 were about was trying to get him under control?

2 A. Absolutely.

3 Q. And when they arrived on the scene, they
4 had to make decisions of how they can go about
5 getting him under control and protecting him from
6 harm and protecting citizens from harm?

7 A. Yes.

8 Q. And the way they chose to do it here is to
9 try to get him under control. One individual
10 running around a grassy area close to a roadway?

11 MR. MCCORMACK: Object to the form.

12 A. They eventually make that decision to try
13 to control Mr. Goode.

14 Q. (BY MR. HUSKISON) Okay. Now, in looking
15 at your report, Mr. Coslin, I want to look at some
16 of the opinions that you reached and just discuss
17 them briefly, page six. The first opinion, I
18 believe it's in that report, I think it's about
19 midway down, you reference that officers made a
20 reasonable -- objectively reasonable decision that
21 Mr. Goode had committed an offense of disorderly
22 conduct?

23 A. Yes, sir. That's correct.

24 Q. So you -- you are satisfied or at least
25 your report indicates that attempting to subdue him

1 was reasonable, correct?

2 A. My opinion is that they had probable cause
3 that Mr. Goode had created -- had committed the
4 offense of disorderly conduct.

5 Q. Okay.

6 A. So they had an arrestable charge and had a
7 reason to arrest and take him into custody, yes.

8 Q. You had mentioned -- I think it's in
9 several places in there, that you mention on page
10 seven, about the fourth paragraph, talking about --
11 you're talking about the use of the canine, and you
12 state at the end of that paragraph, "Mr. Goode was
13 not knowingly under arrest and no verbal commands
14 to stop and submit to arrest were given."

15 A. That's correct.

16 Q. Do you recall reading testimony from
17 Officer Scallorn, the canine officer, where he told
18 him to stop and lay on the ground?

19 A. Okay. Yes. I remember that.

20 Q. I assume it's your testimony he's got to
21 use the word "arrest" for Mr. Goode to understand
22 he's maybe under arrest? Stop and get on the
23 ground is not enough?

24 A. To address that, there a couple of issues I
25 have here. The officers of the Southaven Police

1 Department never produced an arrest report for
2 Mr. Goode. We don't know what the charges were or
3 were going to be because they never charged him
4 with anything, which certainly is odd. He was
5 taken into custody. He was in their custody for an
6 hour and a half before he died, and yet, they did
7 not feel it necessary to do an arrest report, so we
8 don't know what the charges were.

9 The -- Officer Baggett talks about
10 disorderly conduct. I think Officer Scallorn talks
11 about evading arrest or detention, and then Officer
12 Baggett again in his deposition talks about
13 resisting arrest; but yet, there were no charges
14 ever documented with what exactly the actions were
15 of the suspect, how he violated these laws, and
16 what the actions were of the arresting officers.

17 So the issue I have with that is
18 generally for somebody to evade arrest or
19 detention, they have to know that they're being
20 arrested or detained. This wasn't a vehicular
21 pursuit where there's a fully marked squad car, a
22 police car, with red lights and sirens going that
23 is attempting to perform a traffic stop where the
24 person driving the vehicle would know that that's a
25 marked police car attempting to stop them.

1 Here, you have a uniformed officer who
2 is now coming up and talking to him about, get away
3 from his dog, and his only command is to stop and
4 lay down. Well, I don't have to stop and lay down.
5 That's -- that's not against the law for me to
6 stand up. It's not against the law for me to walk
7 away because I have not been detained, so how would
8 Mr. Goode know that he was under arrest, that he
9 did not have the right to leave at this point in
10 time?

11 So what I'm saying is, Officer
12 Scallorn never documents anywhere that he told
13 Mr. Goode, you're either under arrest or being
14 detained so he would know he did not have the right
15 to leave; therefore, fulfilling the elements of the
16 offense where he is evading the officer.

17 So when Officer Scallorn talks about
18 he just gave a command of stop, lay down, what
19 exactly does that mean? That doesn't relay any
20 information to the suspect or arrestee, defendant,
21 plaintiff, whatever term we want to call him. It
22 doesn't relay to him that he has either been
23 legally detained or arrested.

24 Q. It does convey to him, though, that an
25 officer is requesting him to do something, correct?

1 A. Yes, sir.

2 Q. And he disobeyed. He did not comply with
3 that request, did he?

4 A. No, sir, he did not.

5 Q. Do you think Troy Goode, absolute the
6 LSD-induced state, would have realized that
7 officers intended for him to stop and get on the
8 ground more clearly if he had not been in the state
9 he was in?

10 MR. MCCORMACK: Object to the form.

11 A. I cannot speak to Mr. Goode's, what he
12 would have -- how he would have interpreted that
13 command on or off LSD, sir.

14 Q. (BY MR. HUSKISON) But you do interpret --
15 what you do speak to is that you don't believe that
16 he had any idea that he was under arrest. You can
17 speak to that, but you can't speak to this?

18 A. What I'm speaking to is that the officers
19 did not document or did not articulate in any way
20 that they informed Mr. Goode that he was being
21 detained or arrested. They simply told him to get
22 on the ground and stop.

23 Q. And he didn't obey that request, did he?

24 A. No, he did not.

25 Q. And then after that, in an effort to detain

1 him, the dog was sent to get him, correct?

2 A. That's correct.

3 Q. At that point, Mr. Goode should have had a
4 pretty good idea that the officers were trying to
5 at least detain him. You would agree with that,
6 wouldn't you?

7 A. I don't know -- okay. First, it says that
8 Mr. Goode turned and began to run, and I think
9 Scallorn says he took two steps before he sent the
10 dog. Well, if I turn to run, how would I see the
11 dog coming? So I wouldn't know the dog was coming
12 after me. The officers both talked about how his
13 running in this grassy area was -- was what he had
14 been doing the whole time they were there observing
15 him, so this action with him running was consistent
16 with everything he had done. So I don't know and I
17 can't testify to the fact that Mr. Goode would have
18 known the dog had been sent to get him.

19 And what I also don't know is when
20 Scallorn made the decision to send the dog, at that
21 point in time, what was Mr. Goode under arrest for
22 at that point in time? Was he trying -- why was he
23 trying to detain him initially that he would send a
24 canine which is going to bite him? You know, I
25 don't know -- and Scallorn, that's one of the

1 reasons, without having the arrest report, I don't
2 know why Scallorn sent the dog, what -- what he was
3 trying to arrest Mr. Goode for at that point in
4 time.

5 Q. I think if you read through his deposition,
6 he sent the dog to try to get him under control and
7 keep him from running out in the road. That's what
8 he said?

9 MR. MCCORMACK: Object to the form.

10 Q. (BY MR. HUSKISON) That's really
11 undisputed. He's the only one that sent the dog,
12 so that's what he sent the dog for?

13 MR. MCCORMACK: Object to the form.
14 Is there a question there, Berk?

15 Q. (BY MR. HUSKISON) If you assume that he
16 sent the dog to get Mr. Goode under control and
17 keep him from running out into traffic, I mean,
18 that's a reasonable situation where he's trying to
19 keep this man from going out into the busy
20 intersection. That's a reasonable action by a
21 police officer, isn't it?

22 MR. MCCORMACK: Object to the form,
23 compound.

24 A. To -- to say it is a reasonable use of
25 force to send a police canine to stop someone from

1 entering a roadway, I would say is unreasonable.

2 Q. (BY MR. HUSKISON) And the reason you said
3 that is unreasonable is why?

4 A. Well, we can go back to the policy and what
5 the policy states about when we can deploy the
6 canine, when it's authorized for that use of force,
7 and I don't believe anywhere in that policy it says
8 you can use a canine to stop somebody from entering
9 a roadway. Now, I agree with you that if Mr. Goode
10 had entered the roadway, that could have been
11 dangerous for him and anyone else driving. But
12 does it give the officers the authority to use a
13 canine who is going to bite and cause some serious
14 injury to Mr. Goode from stopping him so that he
15 might not enter the roadway?

16 Q. The canine policy, and what I want is what
17 your view on this is, but the canine policy does
18 allow use of a canine to keep somebody from
19 injuring themselves, doesn't it?

20 A. I'm sorry. Do you have the policy here?

21 Q. Are you familiar with canine policies?

22 A. I have read canine policies, yes.

23 Q. Is that one of the things you're allowed to
24 use a canine to do?

25 A. To prevent somebody from injuring

1 themselves?

2 Q. Yes.

3 A. I don't know if it's specifically worded
4 that way, and I don't know that Southaven, in their
5 policy, has that worded that way in their policy.

6 Q. And I don't have it in front of me, but
7 what I want -- I want you to tell me, you concluded
8 that the release of the canine was objectively
9 unreasonable?

10 A. That's correct.

11 Q. Tell me why you concluded that.

12 A. All right. On page seven, the fourth
13 paragraph down, the use of the police canine,
14 although not regularly viewed as deadly force, does
15 have a very high potential for significant injuries
16 and would not normally be deployed against a person
17 who was not an active threat to the officer or
18 others. Canine elements are sometimes employed
19 against a suspect or suspects who are evading
20 arrest, but in this instance, Mr. Goode was not
21 knowingly under arrest and no verbal commands to
22 stop and submit to arrest were given. Mr. Goode
23 could have also been forced into traffic due to a
24 fear of the canine, which is placing him at greater
25 risk.

1 When we look at the totality of this
2 and we consider some of the Graham factors here,
3 what was Mr. Goode being detained or arrested for
4 at that point in time. We know -- we can probably
5 articulate that there was a disorderly conduct
6 offense that occurred, which is a -- it's a
7 misdemeanor. It's probably the lowest charge you
8 can charge somebody with.

9 Q. There's also noncompliance with a police
10 order, stop and --

11 A. Was he charged --

12 Q. -- get on the ground.

13 A. I'm sorry. Was he charged with that?

14 Q. A lot of things went on after this incident
15 occurred that may have led to no charge or not, but
16 the fact, whether he was charged or not, his
17 conduct was noncompliant with officers. You agree
18 with that, don't you, whether he was charged with
19 it or not?

20 MR. MCCORMACK: Object to the form.
21 You can answer.

22 A. Did he comply with Scallorn's comment of
23 "stop and get on the ground"? No, he did not, but
24 that's no different than an officer saying stop
25 videotaping me. You can -- you can -- you can give

1 an order, but you may not have the legal authority
2 to enforce that order.

3 Q. (BY MR. HUSKISON) You would agree with
4 me -- let me stop you just quick and hold your
5 thought. You would agree with me it would be
6 somewhat different in this case where you have an
7 individual, Mr. Goode, who is -- a call in on 911,
8 domestic violence, has been running aimlessly
9 around the parking lot and grassy area and has
10 opened a canine door?

11 A. Yes, sir.

12 MR. MCCORMACK: Object to the form.

13 Q. (BY MR. HUSKISON) That's a little
14 different than the scenario you've mentioned. He's
15 not being compliant with what Officer Scallorn
16 requested him to do?

17 A. Mr. Goode's behavior has been consistent
18 through this entire episode. He has ran around the
19 parking lot. He has ran around the grassy area.
20 He has talked incoherently. He has not responded
21 appropriately to any conversation anybody has
22 attempted to have with Mr. Goode, so -- and the
23 officers observed this, so at this time, why would
24 they expect him to respond appropriately to stop
25 and get on the ground? They understand that he's

1 on LSD, that he's having a bad trip. That he is
2 somehow kind of in a crisis, and they're trying to
3 deal with that.

4 Scallorn makes a decision to send the
5 canine, knowing that the canine was going to cause
6 serious injury when he bites Mr. Goode. Officer
7 Scallorn, at this point in time, he said he's doing
8 it not to place him under arrest but keep him from
9 running into the roadway.

10 Q. I'm not saying either way. He testified he
11 released the dog because Mr. Goode was running
12 along the road, and he wanted to try to do what he
13 could to keep him from getting out onto the road.
14 That's what he testified to.

15 MR. MCCORMACK: Object to the form.
16 Counsel is testifying.

17 Q. (BY MR. HUSKISON) I'm repeating testimony
18 from a witness, but go ahead. You can answer.

19 MR. MCCORMACK: Is there a question?

20 Q. (BY MR. HUSKISON) Yeah. He's trying to
21 answer -- the question is, why do you believe that
22 it was objectively unreasonable to use a canine?

23 MR. MCCORMACK: You can continue your
24 answer.

25 A. If Scallorn was attempting to arrest

1 Mr. Goode, he failed to notify Mr. Goode that he
2 was being detained or arrested. The only offense
3 that we have at this point in time was disorderly
4 conduct, and as you said, once he failed to get
5 down and stop, as directed by Officer Scallorn, now
6 we have failure to obey a police officer, which I
7 believe is still another misdemeanor charge in the
8 state of Mississippi. We have two misdemeanor --
9 possible misdemeanor charges against Mr. Goode, but
10 then, as you stated, Officer Scallorn's concern was
11 not to arrest him but to prevent him from going
12 into traffic.

13 Now, all of a sudden, the concern is
14 Mr. Goode running into traffic being injured, and
15 he launches the dog after two steps to stop this
16 action. I do not believe anywhere in the policy
17 does it state that a person who is not under
18 arrest, a person who is not evading arrest, who is
19 merely trying to enter traffic and may be a danger,
20 I don't think that says that in their policy, that
21 they're justified in using the dog. Did Officer
22 Scallorn have other options available to him? Yes.
23 They could have shut traffic down prior to this
24 incident. Two, he could have pursued him on foot
25 himself. He was only two steps away from him.

1 Three, he had a Taser. He could have tased him,
2 which could have the potential of causing injury
3 but much less than that of the dog bite, so there
4 were other force options available to Scallorn than
5 deploying the canine, which he knew would cause a
6 serious injury from the dog bite.

7 Also, in Mr. Goode's condition, we
8 know he's in crisis. Baggett has received
9 information that he's on LSD. They can observe
10 he's having a bad trip, and now we're going to send
11 a dog to pursue him, which, as I've stated in the
12 report, could scare Mr. Goode enough that he would
13 then run into traffic, which he hadn't done before
14 but now that there's a dog pursuing, I'm going to
15 do whatever I can to get away from that dog.

16 So what I'm saying is, under the
17 circumstances, at the time Scallorn chose to deploy
18 his canine partner, I honestly believe that that
19 was not a reasonable use of force based on the
20 other options that are available to him and what
21 the officers observed up to that point in time.

22 Q. (BY MR. HUSKISON) You believe he had other
23 options that he should have used rather than the
24 canine?

25 A. Yes, sir.

1 Q. And that given -- I think you state in the
2 paragraph that given that Mr. Goode was, in your
3 words, not knowingly under arrest and no verbal
4 commands had been made to stop and submit to
5 arrest, and that was important, as well, because
6 you don't see any reason to try to subdue him at
7 that point with a canine?

8 A. I don't see any -- well, one of the key
9 points of not giving the command that he's under
10 arrest or being detained is meeting one of the key
11 elements of charging of resisting or -- evading
12 arrest. That, you know, he did not knowingly evade
13 arrest because he did not know he was attempting
14 to -- they were attempting to arrest him, so that's
15 a legal point as far as -- as what Scallorn had
16 done, and now he's attempting to use force to enact
17 this arrest or now to stop this person from going
18 into traffic.

19 So without the -- without the arrest
20 being in play, if his only intention is to stop
21 this person from going into traffic, then the force
22 becomes even more extreme because he's not even
23 being charged with a crime here.

24 Q. And at the time of the canine apprehension,
25 you understand that -- that Mr. Goode himself had

1 opened the door and let the dog out?

2 A. Yes, sir.

3 Q. And you understand that he had at least
4 been told to stop and lay on the ground?

5 A. Yes, sir.

6 Q. And he did not obey those commands?

7 A. Yes, sir.

8 Q. All right. Now, on down, the next opinion
9 that you offer looks like about the third paragraph
10 up. "In my opinion, to a reasonable degree of
11 professional certainty, the amount of force used by
12 Scallorn in deploying the Taser was objectively
13 reasonable." So you see no problem with his
14 deployment of the Taser?

15 A. No, I don't.

16 Q. Okay. And, Mr. Coslin, how do you
17 distinguish -- for my purposes, how do you
18 distinguish the use of the Taser and the use of the
19 canine?

20 A. The -- and I believe I talk about in here.
21 The -- the Taser is a much less use of force or a
22 lower use of force than the canine. We know that
23 that canine -- once that canine is launched -- is
24 going to bite the suspect or, in this case,
25 Mr. Goode, and is going to cause damage. They're

1 going to bite and clamp down. It is a normal
2 reaction for that individual to try to pull away,
3 which makes a much worse wound. The person may get
4 bit several times before the officer can get the
5 dog off and get the suspect under control.

6 The Taser, although there is an
7 opportunity for Mr. Goode to fall, he is in a
8 grassy area. He's not on the concrete parking lot.
9 He's in the grassy area. He's a much safer
10 place -- if we're going to deploy the Taser, this
11 is an optimal place for us to do it. We know that
12 when this person goes into the muscle seizure when
13 the electric -- the Taser discharges that they're
14 going to go to muscle lock. They're going to lose
15 their balance, and they're going to fall.

16 If they're in a concrete jail cell
17 where there's steel bed frames and everything else,
18 there's a high chance of injury there. In a
19 parking lot, even where we've got a concrete or
20 asphalt surface, there's a chance of a significant
21 injury occurring from that, but Mr. Goode is
22 located in a grassy area. The chance of a serious
23 injury is very minimal here, so if we are going to
24 deploy some other means of control, the Taser is a
25 much better option for the officer than the dog.

1 It's less likely to injure Mr. Goode.

2 Q. And that's the basis for that opinion?

3 A. Yes, sir.

4 Q. Now, you'd agree, as a police officer, your
5 responsibility is to protect the public, correct?

6 A. Yes, sir.

7 Q. Protect persons from harming themselves,
8 correct?

9 A. Number one priority is preservation of
10 life.

11 Q. That would be themselves and the person,
12 the arrestee?

13 A. Yes, sir.

14 Q. In observing and reviewing what -- all of
15 Mr. Goode's actions here, you agree that it's
16 reasonable for an officer -- officers to want to
17 get him under control?

18 A. Yes.

19 Q. At the point that the dog was deployed and
20 the Taser was used, Mr. Goode was not under
21 control?

22 A. No. Well, let's -- if I can add to that.

23 Q. Sure.

24 A. I guess a better word to use than control
25 would be restrained. He was not under any kind of

1 restraint.

2 Q. That's fine. So he was not restrained at
3 that point?

4 A. That's correct.

5 Q. Now, after the Taser -- I think the
6 testimony is clear, he tripped up in the wiring or
7 whatever he did, he went down?

8 A. Right.

9 Q. Officers came on and attempted to restrain
10 him at some point. Do you remember the testimony
11 about that?

12 A. Yes, sir.

13 Q. Now, your opinion in general -- you make a
14 general opinion toward the end -- I think it's on
15 page ten, at the very right before your
16 qualifications, reasonable degree -- "In my
17 opinion, to a reasonable degree of professional
18 certainty, the amount of force used by members of
19 the police department under control of Chief Long
20 was not objectively reasonable."

21 Now, after the use of the Taser and
22 after the use of the canine, he's on the ground.
23 Officers come in and try to get him under control.
24 Do you remember their testimony, that they had
25 trouble getting him under control?

1 A. Yes, sir.

2 Q. Trouble restraining him?

3 A. Yes, sir.

4 Q. Initially, do you remember the testimony,
5 Mr. Coslin, about that they got his hands cuffed
6 initially and he continued to evade, roll around,
7 whatever he was doing to not -- he was still not
8 restrained or not under control of the officers?

9 MR. MCCORMACK: Object to the form.

10 Q. (BY MR. HUSKISON) Do you remember that
11 testimony?

12 A. What I remember is they got him handcuffed,
13 and they said he was still moving his feet,
14 thrashing around, and that's when somebody called
15 for leg restraints.

16 Q. Okay. Do you remember -- I don't think
17 it's in your report, and I want to be sure that I'm
18 understanding you correctly. You go straight from
19 they attempted to restrain him to then they called
20 for the leg shackles. Officer Rich testified that
21 he attempted, after he had his hands behind his
22 back, to get him up and walk him to the police car.
23 Do you remember that testimony?

24 A. Yes.

25 Q. That would be consistent with how officers

1 are supposed to try to handle situations, correct?

2 A. Yes.

3 Q. And Officer Rich says when he tried to get
4 him up and walking that he continued -- he was
5 concerned he was going to get away from him?

6 MR. MCCORMACK: Object to form.

7 A. Yes, sir.

8 Q. (BY MR. HUSKISON) Do you remember that
9 testimony?

10 A. Yes.

11 Q. And that's actually when the leg shackles
12 were requested after they had to take him back
13 down; is that right?

14 MR. MCCORMACK: Object to the form.

15 A. I believe so, yes, sir.

16 Q. (BY MR. HUSKISON) Okay. In a situation
17 like this, Mr. Coslin, in your mind, what's the
18 goal of the officer? What is their goal? What are
19 they trying to accomplish out there with Mr. Goode?

20 A. At that point in time -- at this moment in
21 time?

22 Q. At that moment in time. They've got him in
23 handcuffs, and they're trying to get -- keep him
24 under control. What are they trying to get
25 accomplished?

1 MR. MCCORMACK: Object to the form.

2 Q. (BY MR. HUSKISON) What should they be
3 trying to get accomplished?

4 A. Well, their ultimate goal here would be to
5 secure him, and due to the fact they know he's
6 under LSD, get him immediate medical attention.

7 Q. Get him to a higher level of care?

8 A. Absolutely.

9 Q. Okay. And in this case, and I know you
10 said it's a large amount of time, and I'm not
11 disputing that with you, but it was 7:49 to 8:01
12 was the time frame for them to get him under
13 control or restraint. I don't think he was ever
14 under control, but restrained -- but to get him
15 restrained and turn him over to the EMS. Do you
16 remember that timeline?

17 MR. MCCORMACK: Object to the form.

18 Q. (BY MR. HUSKISON) You can answer.

19 A. Yes, sir.

20 Q. Do you remember it being 12 minutes?

21 A. Approximately, yes. I'd have to go back
22 and read the exact timeline, but I don't dispute
23 that, no.

24 Q. And in the -- in the normal course,
25 officers, that's what they're attempting to do with

1 somebody that's having a hallucination, whatever he
2 was going through, to get him restrained and some
3 medical help. Would you agree with that, that's
4 what they're after?

5 A. Yes, sir.

6 Q. And they did that here, didn't they?

7 A. Yes, sir.

8 Q. Okay. We talked about this in the
9 beginning. You're not offering opinions about the
10 EMTs and how they handle their medical issues or
11 anything like that?

12 A. No, sir, I'm not.

13 Q. The same to follow with the doctors and
14 hospital folks?

15 A. That's correct.

16 Q. You do mention in your report, there's a
17 discussion, I think it's about hog-tying,
18 positional asphyxia?

19 A. Yes, sir.

20 Q. Are you offering opinions on positional
21 asphyxia and how hog-tying relates to that?

22 A. I'm saying my -- my -- my overall
23 conclusion that the amount of force that they used
24 was unreasonable as specifically relates to the
25 hog-tying four-point restraint, maximum restraint

1 position, whatever term we want to use to describe
2 the way Mr. Goode was finally restrained, that this
3 restraint hold that they placed him in and the time
4 that he was kept in this restraint hold is
5 extremely unreasonable.

6 Q. In the studies or in the reports that I
7 think you cited, a Chicago --

8 A. Their training bulletin, right.

9 Q. Okay. And in Dallas, the same thing?

10 A. Yes, sir, and New York, their training as
11 far as handling these kind of people.

12 Q. And those reports or those studies, the
13 training materials, they were back in the early,
14 mid '90s?

15 A. Yes, sir.

16 Q. You recognize there's a shift after those
17 early findings that -- where positional asphyxia
18 was called into question and that it was -- that
19 hog-tying did not create struggles breathing?

20 MR. MCCORMACK: Object to the form.

21 Q. (BY MR. HUSKISON) Do you recognize that or
22 not?

23 A. I understand that there is some dispute
24 over what hog-tying or the four-point restraint or
25 whatever we're going to call this in itself causes

1 positional asphyxia, but I'm not arguing the
2 medical scientific studies of this and whose study
3 is valid and whose is not valid. That's not my
4 argument here. In -- in the '80s, '90s, there were
5 numerous arrests where the suspect being arrested
6 was placed in this position and, subsequently,
7 deaths occurred, so much so that studies began to
8 be done on why these in-custody deaths were
9 occurring. One of the original reports stated it
10 was -- one of the byproducts of this position was
11 positional asphyxia and that it could be a
12 contributing factor to these suspects' deaths.

13 I'm not a scientist. I'm not a
14 doctor. I don't know who set their experiments up
15 or not. All I know is people that were arrested
16 that were placed in this position died. We found
17 that out. We were informed that this position
18 could be a contributing factor to their death;
19 therefore, the vast majority of agencies throughout
20 the country immediately stopped the use of this
21 technique, this restraint technique, because there
22 were other options available.

23 Putting a person in this position, if
24 it could even -- if we thought it could cause the
25 death of an individual, why would we put them at

1 risk if we had other options available? So most
2 agencies have -- have prevented their -- their
3 officers or deputies from using this type of
4 restraint. It is -- it is not common in law
5 enforcement.

6 Q. When you say most, I mean, what -- how do
7 you -- how do you compute that?

8 A. Well, in my research, I think there was
9 only one agency -- major agency that I found -- I
10 think it was Portland, Washington -- that even
11 still has this in place. Reading the expert report
12 of -- for your police.

13 Q. Dr. Gaut?

14 A. Gaut.

15 Q. G-a-u-t.

16 A. Reading his report, he even referenced a
17 survey that was done, and I can't remember if it
18 was by the San Diego police or whatever, but this
19 was in the mid '90s, where only 30 percent of
20 respondents said that they even allowed this back
21 in the '90s, and that was in his report, so I
22 can't -- other than Portland, I haven't been able
23 to find an agency that -- that openly teaches this
24 currently. They teach various other methods of
25 controlling the individual; not this.

1 So the argument here is -- is whether
2 this -- this hold causes death through positional
3 asphyxia, if it is a contributing factor in the
4 death, and there are other related complications,
5 law enforcement has known about this for decades.
6 The vast majority of agencies had stopped the
7 practice of hog-tying or four-point restraint, and
8 they have used other techniques to control
9 suspects. They have taken special precaution to
10 either elevate the person up in a sitting position
11 so that they can breathe effectively, or at least
12 if you can't do that, put them in what's called a
13 recovery position on their side.

14 So to place someone in this position,
15 understanding positional asphyxia and the cause
16 that it may have, you're putting this arrestee at
17 tremendous risk, which once we've got them in
18 custody, you know, we have the duty to protect this
19 individual. They're our responsibility. They're
20 not ours to injure. They're ours to protect.

21 And to place them in this hold,
22 knowing it could contribute to their death and then
23 to leave them in that position for an hour and
24 27 minutes with no relief, with no repositioning,
25 especially when the ambulance shows up, now we have

1 a stretcher, gurney, whatever term you want to call
2 it, that offers the officers on the scene an
3 alternative restraint method, so now -- even if we
4 say putting this person in this four-point
5 restraint at that time was reasonable, once the
6 officers were presented an alternative where now
7 we've got five or six officers here, we've got EMS,
8 fire, medical personnel, we've got a ton of people
9 out here, we can remove the leg shackles from
10 around the handcuffs.

11 We can roll Mr. Goode over, place him
12 on the stretcher, as he should normally be
13 transported, support both wrists with handcuffs to
14 the stretcher, put all five straps across him. We
15 can even -- we can even put the leg shackles back
16 on and restrain him to the gurney. Mr. Goode is
17 immobilized. His breathing is not compromised in
18 any way by his position. He's under control. He
19 can't assault or hurt anybody. The medical people
20 now have better access to the patient they need to
21 care for, and the police are now using a more
22 appropriate restraint, especially knowing that they
23 have a medical crisis on their hands.

24 Q. The alternative you're talking about when
25 the EMS arrived is just having a gurney? I mean,

1 you don't recall them offering any other
2 alternative to be able to secure Mr. Goode, do you?
3 They just came with a gurney?

4 A. On that gurney are five two-inch-wide nylon
5 straps they're going to use to secure him to that
6 bed. It's constructed of a metal frame that now we
7 can secure the handcuffs to. We transport
8 prisoners all the time, you know, so putting --
9 putting a prisoner, even a violent prisoner, into
10 an ambulance is not something uncommon to law
11 enforcement. Transporting them prone in a
12 four-point or hog-tied position facedown on a
13 stretcher, that isn't common.

14 Q. When you reviewed information on this case,
15 you saw the testimony from the EMT, Stacie Graham,
16 about he was -- Mr. Goode was still out of control.
17 Do you remember seeing that?

18 A. Yes.

19 Q. Okay. And the hospital -- once he got to
20 the hospital, the hospital personnel discussed and
21 talked about he was still out of control, everyone
22 was trying to figure out a way to get him under
23 control to better treat him. You agree that that's
24 what they were trying to do?

25 MR. MCCORMACK: Object to the form.

1 A. I agree that they made those comments.
2 Now, we're talking about civilian personnel here
3 dealing with a prisoner. What does she mean by
4 he's out of control? He's verbally noncompliant?
5 He's moving around? He is -- is handcuffed and
6 shackled in a four-point position. He now has five
7 straps across his person on the gurney securing him
8 to the gurney. I don't know how much more control
9 we could possibly have over that individual, so I
10 don't understand when she says he's out of control
11 what she means by that.

12 His appearance -- because Officer
13 Baggett talks about he was in the ambulance and
14 never put hands on Mr. Goode after that. At the
15 hospital, he stayed with him the whole time in the
16 hospital. He never had to intervene in any way to
17 control Mr. Goode, so these civilians that are
18 testifying that they felt Mr. Goode was out of
19 control, physically, we know he was under control,
20 so I don't understand what their perception of
21 control is.

22 Q. (BY MR. HUSKISON) She described it, if
23 you -- do you remember reading where she described
24 him as flailing, falling off the bed, they couldn't
25 keep him on the bed, those kinds of things? I

1 think that's what she's talking about. I think
2 that's what her testimony was. Do you remember
3 reading that?

4 MR. MCCORMACK: Object to the form.

5 Q. (BY MR. HUSKISON) Whether you agree or
6 disagree with it, do you remember reading it?

7 A. I -- I do, and it was inconsistent with
8 other witness statements.

9 Q. Now, the materials that you've read and
10 researched on, I think you've referred to as
11 hog-tying, you've seen Tom Long's discussion about
12 having the chain with a little bit of length to it
13 to give you a little more movement is considered
14 four-point restraint in his mind. That's what he
15 described it as, and he said that's what others
16 described it as. The studies that you reviewed,
17 were they reviewing the hog-tie where you're up in
18 a ball, or were they reviewing the four-point
19 restraint where you've got some movement, do you
20 know?

21 A. See, and this is where -- you asked me this
22 earlier, where I differ with Chief Long's statement
23 about the definition of hog-tying using two pair of
24 handcuffs because that is -- with -- I would say
25 just an estimate, that would be physically

1 impossible about 90 percent of the population due
2 to the flexibility of the individual, the size of
3 the individual, and the diameter of the handcuffs
4 not being able to physically place them around
5 their ankles, so I think Chief Long is -- has
6 misstated hog-tying.

7 In your own diagram here, Exhibit B,
8 it's showing this hog-tying using leg shackles with
9 an extended chain. So the -- the difference that
10 he's saying between four-point restraint and
11 hog-tying, I don't believe there is technically a
12 difference. I think Mr. -- Chief Long has -- has
13 improperly stated hog-tying.

14 Q. You referenced Exhibit B, the diagram, and
15 then, of course, Exhibit C, is the actual
16 picture --

17 A. Correct.

18 Q. -- or photo. Hopefully, we can get a
19 better one. You agree with me the way Mr. Goode's
20 feet are, are not up in a ball like they are on the
21 photo -- on the diagram? That is a distinction in
22 the pictures, correct?

23 A. In the picture in Exhibit B in the diagram
24 the drawing of this individual has both feet
25 together side by side, and both hands together side

1 by side, putting the person in this position. It
2 doesn't give a size of the individual here as
3 opposed to the size of Mr. Goode, so what I -- what
4 I see in Exhibit C, the photograph, which is very
5 hard to tell, with Mr. Goode on the stretcher is
6 one foot farther forward, one foot farther back.
7 Of course, with the chain, as you move one foot
8 forward, the chain can cycle around the handcuffs
9 allowing one foot to come up slightly back, but
10 we're still -- we're very limited in movement here.

11 This position is extremely painful.
12 It's uncomfortable. We've got metal braces --
13 metal handcuffs digging into the wrist bones.
14 We've got metal shackles on the bones of the
15 ankles, and then we've got a person put in a
16 position that's unnatural where if they let their
17 feet down, now they're putting pressure on their
18 handcuffs, cutting into their wrists. If they
19 bring -- and if they bring their feet up or if they
20 pull their hands up, now they're putting more
21 pressure on their ankles. All of this is extremely
22 uncomfortable for the person in this position, and
23 that would even explain his movements, why he's
24 moving, because this hurts. Whether you're on LSD
25 or not, this is not a comfortable position to be

1 put in.

2 So yes, there's going to be some
3 movement of the suspect here, but, you know, to get
4 back to the original question, hog-tying,
5 four-point restraint, I think Chief Long misstated
6 it. I think hog-tying as represented in the
7 diagram or Exhibit B here uses handcuffs and
8 shackles just as they were used in Southaven,
9 Mississippi.

10 Q. From your review of four-point restraint
11 and hog-tying, did you review case law -- some case
12 law?

13 A. No, I did not.

14 Q. Okay. Now, from your review of the police
15 policies and procedures where they did have it, and
16 I think you said there weren't many, do you
17 remember a significant thing being that the
18 arrestee was always monitored or somebody was
19 always observing what was going on?

20 A. Yes, and that's consistent even without
21 referring to the leg restraints or four-point or
22 hog-tying, when we take somebody into custody,
23 especially somebody that's on drugs as they knew
24 Mr. Goode was, we are going to change their
25 position. Even if we don't use leg restraints, the

1 current practices and policies of most agencies is
2 not to leave the person in a prone position for an
3 extreme period of time.

4 One of the training manuals that was
5 presented to me that was presented by Southaven was
6 that it talked about the dangers of positional
7 asphyxia of a suspect being allowed to lay prone
8 for a long time handcuffed with their hands behind
9 their back. Training would show to elevate the
10 person to a sitting position as quickly as possible
11 or at least into, what we call, a recovery position
12 on their side. It gives the officer some control
13 over the person, but it allows them to get off
14 their stomach and breathe better. We can bend them
15 at their hips to allow the diaphragm to work
16 properly.

17 The officers were trained in
18 positional asphyxia. They knew about the
19 positional asphyxia, and they didn't take any steps
20 to relieve him of this.

21 Q. The training materials that I saw -- that
22 I've reviewed and the ones that you have in your
23 report all seemed to indicate that the -- the
24 officers first responsibility is to get a suspect
25 under control?

1 A. Correct.

2 Q. And in this case, that was what they were
3 attempting to do, to get him under control?

4 A. Correct.

5 Q. And I think you've heard testimony or you
6 read testimony from the officers and then from the
7 EMT personnel and from the hospital that although
8 he was restrained, he never was in control of
9 himself. He was consistently fighting and arguing
10 and saying incoherent type of things. Do you
11 remember seeing that?

12 A. Yes.

13 Q. Do you agree with me that officers, their
14 responsibility is to get control of the suspect and
15 get him to where he can be treated or whatever with
16 medical help?

17 A. Absolutely. I would -- I would agree
18 that's what the goal here should have been.

19 Q. And here, the officers in this case spent
20 12 minutes -- if I'm missing that, I think it was
21 12 minutes, but what the records show subduing him,
22 restraining him, trying to get him under control,
23 at which point they provided -- he was turned over
24 to the EMTs with officers -- he's still in the
25 custody of our officers. And their goal is to get

1 him to a better place healthcare-wise, correct?

2 MR. MCCORMACK: Object to the form.

3 You can answer.

4 A. I would assume that that's their goal here
5 is to get him the proper medical treatment he
6 needs, but that does relieve their responsibility
7 of the force that they've applied to Mr. Goode and
8 monitoring Mr. Goode and adjusting that force as
9 necessary. To simply place Mr. Goode in this
10 four-point restraint, even if initially that's
11 reasonable, which I don't believe it is because
12 they had other alternatives, and leave him there
13 with no attempt to change that position would
14 certainly be unreasonable.

15 You know, the officers are responsible
16 for this prisoner. Once they take custody of him,
17 they're responsible for him, and they place him in
18 this position. The EMS didn't put him in this
19 position. The hospital didn't put him in this
20 position. They did. It's their responsibility to
21 get him out of this position as time warrants, so
22 even if we say this position originally was
23 reasonable, they had other techniques they could
24 have applied without using the four-point
25 restraint.

1 They had a different way. They had a
2 better way of securing Mr. Goode when the gurney
3 arrived on scene. They didn't transition. He was
4 transported that way to the hospital. Once again,
5 knowing about positional asphyxia, knowing they're
6 supposed to monitor the suspect, Officer Baggett
7 testifies that he found an inhaler on Mr. Goode.
8 He spoke with his wife, and she confirmed that he
9 was an asthma patient, that he suffered from
10 asthma, which now, we have a person in a four-point
11 restraint that has asthma. Officer Baggett's aware
12 of that. He notifies the emergency medical
13 personnel of this fact. There's no other need for
14 Officer Baggett from that point on, any physical
15 intervention to help control Mr. Goode.

16 So when we speak about control and
17 what civilians see as control, he was incoherent.
18 Is that what they mean by he's out of control? He
19 didn't respond to questions. He moved. Well, he's
20 in an extremely uncomfortable position. He's going
21 to move. He's going to try to find some relief
22 somehow, so there's going to be movement; but how
23 much movement can he actually move when he's in
24 this position with five straps across him. He
25 wasn't going to fall off the gurney. He wasn't

1 going to roll over. He couldn't physically roll
2 over. He didn't have the ability to, so to say he
3 was out of control, he wasn't out of physical
4 control. They -- they established physical control
5 over Mr. Goode.

6 Q. (BY MR. HUSKISON) Do you remember reading
7 anything about while he was in the hospital that he
8 flailed to such an extent that he fell out of the
9 bed or was falling out of the bed and they had to
10 get him back in the bed?

11 MR. MCCORMACK: Object to the form.

12 A. No, sir.

13 Q. (BY MR. HUSKISON) You don't remember that?

14 A. No, sir.

15 Q. You do agree with me, Mr. Coslan, that --

16 MR. MCCORMACK: Coslin.

17 MR. HUSKISON: Coslin. I'm sorry.

18 THE WITNESS: You're good.

19 Q. (BY MR. HUSKISON) That he was monitored
20 constantly. Officers were with him. The first
21 12 minutes, officers were with him. The EMS
22 transport, he had an EMT back there and officers.
23 You get to the hospital, you have hospital
24 personnel monitoring him the full time. Do you
25 agree with that?

1 A. Not necessarily. Was Mr. Coslin left alone
2 at any point in time? No, I don't believe he was
3 left alone at any point in time, so when we talk
4 about the officers' duty to monitor and observe
5 their arrestee now, Mr. Goode, and because now they
6 have him in this restraint position, they're going
7 to leave him in this restraint position, but they
8 know about positional asphyxia, they all say that,
9 but they have to stay with him and monitor to make
10 sure he doesn't have any medical problems.

11 Q. What they're doing -- let me back you up.
12 They're observing respiratory issues, whether he's
13 having trouble breathing. That's part of what
14 they're observing, correct?

15 A. And -- and -- that's correct. And Officer
16 Baggett, in this deposition, says that he was
17 having -- everybody says that he was having
18 breathing issues.

19 Q. I think you misread his testimony. What he
20 was saying was everybody outside says he was having
21 breathing issues, but I was there, and he was
22 talking and screaming.

23 MR. MCCORMACK: Object to the form.

24 Q. (BY MR. HUSKISON) I think you misread his
25 testimony. If you'll read back over that, you'll

1 see that he's referring to what everybody is
2 getting on -- getting on him about, it's not what
3 he observed.

4 MR. MCCORMACK: Object to the form.

5 Q. (BY MR. HUSKISON) Because he testified
6 clearly that he did not observe any breathing
7 issues with Mr. Goode, but anyway.

8 MR. MCCORMACK: Object to the form.
9 Counsel is testifying. You can continue your
10 answer.

11 A. Reading his deposition, that is not how I
12 took it. It was -- it was apparent to me that
13 Officer Baggett said that everybody knew he was
14 having breathing issues. Because someone could
15 talk, that doesn't mean they're not having
16 breathing issues. In his testimony or in his
17 deposition, Officer Baggett, while at the hospital,
18 addresses one of the nurses prior to everybody
19 leaving, and he brings up the issue that, hey, do
20 we need to reposition him? Do we need to take
21 these restraints off and -- and move him so you
22 guys can take care of him because we can do that
23 while everybody is here. I have enough people here
24 that we can do that.

25 So Officer Baggett himself said at

1 some point in time by even offering this that there
2 was an alternative other than this restraint, that
3 he had other ways of restraining him, that they
4 could physically handle him, they could put him in
5 a different position and restrain him to the bed,
6 stretcher, whatever he was on at that point in time
7 because he had people to help him do so, and they
8 could secure him to the bed.

9 They talked about that same nurse, I
10 think, about soft restraints, and I believe the
11 comment was a soft restraint -- the nurse told him
12 the soft restraints wouldn't work, but they still
13 had metal restraints. They had handcuffs, and
14 Chief Long talked about in his deposition that they
15 had terminated an officer in Southaven that had
16 struck a prisoner that was handcuffed to a gurney,
17 so they had used this technique of handcuffing
18 people to a gurney to secure them in the past, not
19 soft restraints. So their officers had experience
20 with handcuffing people to a gurney.

21 Officer Baggett saw a need enough so
22 that he made it clear to the personnel there that
23 we can take him out of this restraint and restrain
24 him; therefore, once again, by making that
25 statement, the amount of force being applied still

1 more than an hour into this deal, they haven't
2 relieved him of this force, they haven't documented
3 in any way that Mr. Goode is still a threat, a
4 danger, he's resisting in any way.

5 He's moving because of -- because the
6 position they have him in is extremely
7 uncomfortable. He's going to continue to move.
8 He's on LSD. He's having a bad trip. He's going
9 to continue to move, but we can secure his hands.
10 We can strap him to the gurney. We can get him out
11 of this position. We can put him on his back where
12 he can breathe, and we even relieve the chance of
13 positional asphyxia.

14 Q. (BY MR. HUSKISON) You're assuming what
15 officer -- what you believe Officer Baggett was
16 meaning when he was asked that question, correct?
17 You don't know what he was thinking. You're just
18 assuming that?

19 A. Well, in reviewing his -- his deposition,
20 if Officer Baggett didn't have the physical means
21 of changing Mr. Goode's position, changing the way
22 he was restrained, why would he offer to do so?

23 Q. But you're assuming. I mean, you're
24 assuming that that's what he was talking about and
25 that he had other effective means to restrain him.

1 You're assuming that?

2 A. Well, I think he makes that clear in his
3 statement because he specifically said while
4 everybody is here, before everybody leaves because
5 then I'll be by myself, and so it's going to be
6 more difficult for me to move him by myself, so
7 yes, I believe that's exactly what he's trying to
8 confer to the nurse or whatever medical person is
9 there, that I physically have the ability to change
10 Mr. Goode's position to resecure him to the bed in
11 a different manner if that will help you guys treat
12 him medically while he has some people there.

13 He talked about having the people
14 there to do it because later on, he wouldn't be
15 able to do it by himself or it would be more
16 difficult, so I -- I don't know what else to assume
17 from that statement other than the fact that he
18 realized that there was an ability to change his
19 position and that it would probably serve a medical
20 benefit.

21 Q. Could you assume from his statement that he
22 was asking them did they have any way to control
23 him if we move him?

24 A. No, sir.

25 Q. Could you assume that? You couldn't assume

1 that?

2 A. I don't understand what you're -- could you
3 rephrase that, please?

4 Q. My question is this: Officer Baggett and
5 all of the folks that testified about it in the
6 emergency room testified that they considered it
7 but they didn't have any other way to control him
8 because he was so out of control in terms of moving
9 around and thrashing about that they had to do
10 something before taking him out and releasing him
11 from the restraints that he was in to get him under
12 control. That's what the testimony from every
13 witness has been.

14 A. Okay. So --

15 MR. MCCORMACK: Object to the form.
16 What's the question, Berk?

17 Q. (BY MR. HUSKISON) Is -- based on what all
18 of that testimony is, do you still assume that
19 Officer Baggett was saying, I've got other ways I
20 can restrain him? Is that what you're saying?

21 A. Officer Baggett is the arresting officer.
22 He is there with Mr. Goode at the hospital. He's
23 the one that has custody of Mr. Baggett [sic]. He
24 is, as we talked about earlier, assessing the
25 situation and can make decisions on appropriate

1 uses of force or how he's going to handle the
2 situation. He still has care and custody of
3 Mr. Goode. Whether other civilian witnesses who
4 aren't trained in restraining or controlling
5 prisoners believes that Mr. Goode is out of control
6 and they have no way of restraining him, that
7 really isn't relevant to Officer Baggett's point of
8 view that, hey, I'm here, I'm offering to change
9 this person's position, I have people here to do
10 so.

11 If he offered it, why -- how would
12 he -- why would he offer if he didn't have the
13 ability to do it? So that's -- that takes
14 precedence over a civilian nurse or someone else
15 who isn't trained in restraining suspects or
16 arrested people. Officer Baggett also talks about
17 a security guard from the hospital coming into the
18 room with him saying, what's going on, and leaves.
19 Well, the security guard comes by, and there's such
20 a little problem here that he just leaves. There's
21 so little of a problem with Mr. Goode that all of
22 the officers leave, that they just left Officer
23 Baggett there to monitor him because he's still a
24 prisoner in their custody, so they have to leave
25 some officer there.

1 And at that point, Officer Baggett's
2 monitoring is him sitting in the back of the room
3 on his phone. He's trying to stay out of
4 everybody's way. There's no physical control of
5 Mr. Goode. There's no intervening with Mr. Goode
6 while the doctors and nurses are trying to care for
7 him. He's just in the room, and I don't know to
8 what extent that is really monitoring the person.

9 MR. MCCORMACK: We've been going for a
10 little while now. Is this a good time for a break?

11 MR. HUSKISON: Yeah. I'm about done.

12 MR. MCCORMACK: I just need to run to
13 the restroom.

14 MR. HUSKISON: We'll take a short
15 break.

16 MR. MCCORMACK: Five minutes.

17 (Break was had from 11:21 a.m. to
18 11:31 a.m.)

19 Q. (BY MR. HUSKISON) All right. We are back
20 on. I just want to follow up with a few things. I
21 noticed in your report you testified in a 2016
22 case, Jones versus McIntosh?

23 A. Yes.

24 Q. What kind of case was that?

25 A. It was a case with excessive force.

1 Q. And were you testifying on behalf of the
2 plaintiff or the defendant?

3 A. The plaintiff.

4 Q. And was it -- did it go to trial?

5 A. It did. They got through summary judgment,
6 and I believe there was an undisclosed settlement.
7 Well, I would say they had numerous hearings that
8 got past summary judgment that was ruled in favor
9 of the plaintiff, and then there was a
10 settlement -- an undisclosed settlement reached
11 after that.

12 Q. What was the excessive force you testified
13 to in that case?

14 A. It was regarding a young lady who was
15 arrested for DWI. She was brought in to the
16 city-operated detention facility. She was
17 processed in and placed into a single cell. A
18 short time later, she had removed the Gideon's
19 Bible and beginning -- began tearing pages out of
20 the Bible and pushing it out the slot of the door.
21 The sergeant who was there for the police
22 department operating the facility gave her several
23 verbal commands to stop tearing up the Bible and
24 give it to him. She refused.

25 He entered the cell, pinned her

1 against the wall of the cell, which is a small,
2 like, 8-by-10 concrete cell with two metal bunk
3 beds, all concrete floors and walls, a metal
4 commode. He pins her against the wall, removes the
5 Bible from her hands, throws it on a bed, and then
6 takes two or three steps back, pulls her arm, puts
7 his hand on the back of her head and slams her into
8 the floor and wall across the room causing -- I
9 believe she had four different fractures in her
10 jaw, a broken nose. She lost six teeth, and that
11 was the -- the basics of the complaint.

12 Q. It's got the individual -- it's got
13 McIntosh. Is that the sheriff?

14 A. That's the sergeant involved.

15 Q. What county was that in?

16 A. I think it's the City of Wylie.

17 Q. Do you remember what court it was in? Is
18 it here in Texas?

19 A. Yes. Just a second, and I'll tell you
20 exactly. I think it was in the Northern District,
21 but...

22 Q. Eastern District of Texas. Does that sound
23 right?

24 A. Eastern District, yes, sir.

25 Q. Okay. And as far as you know, did you

1 testify by deposition in that case?

2 A. Yes, sir.

3 Q. Looking through your list of documents that
4 you reviewed, No. 1, it's at the very back of that
5 next-to-last page, plaintiffs' statement of facts.
6 What is that?

7 A. It is a document provided to me by the
8 plaintiffs' counsel where they give notice, I
9 believe to the court, what their statement of facts
10 are in this case.

11 Q. You believe that was a document that was
12 filed with the court?

13 A. I -- I believe so.

14 MR. HUSKISON: We can go off the
15 record just a second.

16 (Discussion off the record.)

17 A. I don't know if it's the same one. It's on
18 here, and I don't know if I have a written copy of
19 that in my file out in my truck, but I believe it
20 says exactly what this -- plaintiffs' statement of
21 facts.

22 MR. HUSKISON: Do you have an extra
23 copy of that?

24 MR. MCCORMACK: I do not, but I
25 believe that's the same one.

1 Q. (BY MR. HUSKISON) And what you're looking
2 at, Mr. Coslin, is a factual predicate that's
3 included in plaintiffs' expert disclosures; is that
4 right?

5 A. I don't know if that's the actual document
6 that I'm talking about here. I know it is on here
7 (indicating). You requested copies of all
8 documents and stuff I reviewed.

9 Q. Okay.

10 A. Instead of printing out a gazillion pages
11 of stuff --

12 Q. You brought it for me?

13 A. Yes.

14 Q. That was my next question. That
15 plaintiffs' statement is on there?

16 A. Yes, sir.

17 Q. Whatever it is?

18 A. All of the stuff is on here, including --
19 what is not on here is, I think, Dr. Gaut -- is
20 that his name, correct?

21 Q. Uh-huh.

22 A. I received his report after writing this.

23 Q. Okay.

24 A. And it's on here because I have since
25 reviewed his report.

1 Q. On that -- and is that for me?

2 A. Yes, sir, it is for you.

3 Q. Good. On that -- the document that you've
4 provided, did you have any e-mails or
5 correspondence with plaintiffs' counsel about your
6 testimony or anything like that?

7 A. About testimony, no. Do I have e-mails
8 back and forth with the plaintiffs' attorneys?
9 Yes.

10 Q. Do you have those on there?

11 A. Absolutely not.

12 Q. Would you please provide those to the
13 attorney so you can review them? Anything they
14 communicated back and forth with you is
15 discoverable. Okay? Can you provide that with
16 him -- to me?

17 MR. MCCORMACK: Object to the
18 statement that anything -- any communications
19 between us and the expert are discoverable. That's
20 not what the law is, but I will state that we are
21 happy to review any e-mails, and any that are not
22 privileged, we're happy to produce.

23 MR. HUSKISON: Okay. Please do that.

24 Q. (BY MR. HUSKISON) Now, we marked while we
25 were out a notice of deposition. It's the notice I

1 filed in this case. It is Exhibit I, and looking
2 through that, it requested you bring some things.
3 Is that what you've included on the thumbnail thing
4 you provided?

5 A. Yes, sir.

6 (Exhibit I was marked.)

7 Q. (BY MR. HUSKISON) Is there anything in
8 there, Mr. Coslin, that we've requested that you
9 did not provide?

10 A. Other than attorney e-mails, I believe
11 everything is there.

12 Q. Okay. How much are you being paid? What's
13 your compensation?

14 A. The fee schedule is on there, as well.

15 Q. Okay.

16 A. That's one of the things you asked for.
17 For this case -- my fees have since gone up, but
18 for this case, I bill at \$125 an hour per work done
19 in consulting, reviewing, or writing reports.
20 Anything that would require me to be away from my
21 office, such as deposition, is a flat fee of \$1,000
22 a day plus any expenses. Those fees have since
23 changed, but they're not relevant to this case.

24 Q. You reference or you listed one case that
25 you testified in by way of deposition, I think you

1 said. Are you involved in any other cases
2 currently?

3 A. I -- I have several cases that I am
4 reviewing and advising on. Since that report was
5 issued, I have testified through deposition in
6 another case, and it's included on that thumb
7 drive, as well.

8 Q. What kind of case was that?

9 A. It was an excessive force case.

10 Q. Did you testify for the plaintiff or the
11 defendant?

12 A. For the plaintiff.

13 Q. Your consulting business or, I guess,
14 expert testifying business was -- 2015, is that
15 when you started?

16 A. Yes, sir.

17 MR. MCCORMACK: Object to the form of
18 that.

19 Q. (BY MR. HUSKISON) You do that on the side
20 from your job with Smith County?

21 A. Yes, sir.

22 MR. HUSKISON: Mr. Coslin, I
23 appreciate your time. We'll let some of these
24 others ask questions, and I may have some follow-up
25 after they ask. Thank you.

1 THE WITNESS: Thank you, sir.

2 MR. MCCORMACK: Do you want to go to
3 the phones?

4 THE WITNESS: All right, guys. We are
5 back on the speakerphone now. Can everybody hear?

6 MR. MCINTOSH: Yes, I can hear.

7 MS. WADDELL: Amanda Waddell, yes.

8 MR. JORDAN: Yes.

9 THE WITNESS: Okay. Good. All right.
10 This is Darrell Coslin. We are going to continue
11 on. Is there anybody that has questions?

12 MR. JORDAN: This is Trey Jordan on
13 behalf of SET. I have no questions, sir.

14 MR. MCINTOSH: This is John Mark
15 McIntosh on behalf of Baptist Memorial DeSoto. I
16 have no questions, as well.

17 MS. WADDELL: This is Amanda Waddell
18 on behalf of Dr. Oliver. I, likewise, do not have
19 any questions.

20 THE WITNESS: Is that everybody?

21 MR. MCCORMACK: I think so. Yeah.

22 THE WITNESS: All right. If you have
23 no questions, I think what we're going to do is
24 we're going to mute this and go back on the
25 computer and let Kevin start his cross.

EXAMINATION

BY MR. MCCORMACK:

Q. Mr. Coslin, as you know, my name is Kevin McCormack. I represent Kelli Goode, the widow of Troy Goode. I want to ask you some questions about -- well, I want to start off with questions about hog-tying. Are you familiar with the term hog-tying?

A. Yes, sir, I am.

Q. As that's used in police practices, what does it mean?

A. Hog-tying is in reference to a way of restraint using both handcuffs and leg restraints to secure a suspect or an arrested person. The person is laid prone. He was placed in hand restraints or handcuffs. One leg restraint or a leg iron is placed on an ankle, then that leg is brought forward, allowing the officer to loop the chain separating the two ends of the leg iron through the middle part of the handcuffs and then back down to the opposite ankle or leg and where it is secured to the other leg. So now we have both hands and feet bound and bound together behind a person's back as they lay prone on the ground.

Q. There was some discussion about whether two

1 sets of the handcuffs could be used to perform a
2 hog-tie. In your experience, is that how a hog-tie
3 is performed?

4 A. No. I -- this is the first I've heard of
5 that. We talked earlier about Chief Long
6 describing hog-tying and four-point restraint being
7 two different things, and the basis -- the basic
8 fact that he stated it was a difference between the
9 two, in hog-tying, you use two pair of handcuffs.
10 In a four-point restraint, you would use handcuffs
11 and then a pair of leg irons, as he said, or leg
12 restraints to connect together allowing for a
13 little more give or room between the hands and the
14 feet.

15 Q. I see you have a set of handcuffs here. Is
16 this a standard set -- standard size set of
17 handcuffs?

18 A. Yeah. These are -- I mean, whether they're
19 ASPs, Smith & Wesson, Peerless, they're usually the
20 same. You will have handcuffs that are
21 double-hinged in the middle where they take the
22 chain out where it doesn't allow the twisting, but
23 this is a very typical, very common handcuff, and
24 they're all the same diameter basically.

25 Q. Would that diameter of handcuff, could you

1 fit it around a suspect's wrist?

2 A. Most suspects from children -- it's hard on
3 small children. Some small females because it will
4 only go that small, and there's some people that
5 have extremely small hands that you have to be very
6 careful with. Some very small people, they may
7 pull through this, but for most adults, I'd say
8 this works on probably 99 percent of the population
9 of adult age that would be arrested.

10 Q. Well, would it work on adult ankles? If
11 you were trying to fit that around an adult's
12 ankle, would that work?

13 A. It would be very difficult because of the
14 size. This being very small, that is the absolute
15 largest diameter you can make this handcuff. It's
16 on the first click, and that's only one barb on
17 this handcuff that's actually holding in the
18 locking mechanism. The diameter here is so small
19 that it's almost impossible to get it on an adult
20 prisoner's ankles because the diameter of the ankle
21 is much larger, so this becomes extremely difficult
22 to use, and you physically couldn't do it on
23 probably 90 percent of the population.

24 Q. Mr. Coslin, I'm about six feet tall and
25 about 170 pounds. Do you think you would be able

1 to get that on my leg?

2 A. I seriously doubt it.

3 Q. If you can't get that set of handcuffs on
4 somebody's leg, how would it be possible for
5 hog-tying to involve these two sets of handcuffs?

6 A. It wouldn't.

7 Q. All right. You were shown a couple of
8 exhibits that demonstrate hog-tying. Could you
9 pull out Exhibit B there?

10 A. (Complying.)

11 Q. Could you tell us what Exhibit B is?

12 A. It looks like a hand-drawn diagram. It
13 says it's a restraint and hog-tie position. It
14 shows a caricature of an individual laying in what
15 appears to be the backseat of a vehicle, prone,
16 with his hands and -- in handcuffs, and his legs
17 secured in leg restraints with the handcuffs and
18 leg restraints interlocked together.

19 Q. Does that diagram accurately -- fairly and
20 accurately represent the position that Troy Goode
21 was in when he was restrained by the Southaven
22 police?

23 A. Yes, it does.

24 Q. Was Troy Goode hog-tied?

25 A. Yes, he was.

1 Q. You were asked some questions about
2 different witness statements. When you're judging
3 a use of force by the police, what witness
4 statements are you primarily looking at? Which
5 are, I guess, the key ones to understand the
6 officer's point of view?

7 A. Well, to understand the officer's point of
8 view, I -- I -- I focus very much on the officers'
9 statements themselves. The officers have the
10 training and experience and they're able to
11 articulate or they know what facts they need to
12 articulate to describe the necessity of their
13 actions or what they're observing going on. Most
14 officers are very good at documenting their
15 observations on a scene because they routinely have
16 to do these in their reports, whether it's an
17 arrest or offense report or whatever it may be. So
18 if I'm looking at trying to understand what the
19 officer is going through or seeing, I want to -- I
20 want to hear it in his words or her words.

21 Q. Based on your review of the officers'
22 statements in this case, when they arrived on the
23 scene, did it appear to you that they felt Troy
24 Goode was a threat to himself or others?

25 MR. HUSKISON: Object to the form.

1 What the officers felt? I don't think he can
2 testify to that, but anyway.

3 MR. MCCORMACK: I'll rephrase that.

4 Q. (BY MR. MCCORMACK) Based on your review of
5 the officers' statements, were there any objective
6 facts that indicated that they felt Troy Goode was
7 a threat to himself or others?

8 A. They did not document anything that would
9 lead me to believe that, and their actions that
10 they did document, it would actually lead me to
11 believe the opposite, that they were comfortable
12 enough to not address Mr. Goode, to speak to his
13 wife, to not immediately pursue him when -- after
14 he approached Officer Baggett, so by his own
15 observation and his own actions, it would lead me
16 to believe, especially Officer Baggett, did not
17 feel that there was an immediate threat posed by
18 Mr. Goode.

19 Q. In the event that the officers arriving on
20 the scene had felt that Troy Goode was a threat to
21 himself or others because he might run into
22 traffic, did the officers have any options to
23 control that threat?

24 A. Yes. The -- the easiest option at that
25 point in time because to control a person who's

1 running around, especially now that we know that
2 this gentleman is high on LSD and he's not acting
3 rationally, if traffic is a concern, the easiest
4 thing is to stop the traffic. That's a very simple
5 path, whether parking cars, stopping traffic,
6 halting the traffic, allowing them time to
7 apprehend Mr. Goode. Once they start making an
8 approach to apprehend Mr. Goode, whether it's
9 themselves or with a canine in this case, which was
10 deployed, we don't know how Mr. Goode is going to
11 respond. We don't know the ease of this detention.

12 As it was stated earlier, I believe it
13 took 11 or 12 minutes from the time officers
14 arrived until the time he was detained or placed
15 under -- in restraints, so we don't know what is
16 going to happen with Mr. Goode, his reaction to us
17 approaching him. We do know he's in crisis. We
18 don't -- we know he's not in a normal mental state,
19 so his reaction may not be that of a normal person,
20 so if I have the opportunity and there was time
21 here and there was enough officers responding,
22 there is an opportunity to simply stop the traffic
23 if that was an issue.

24 Q. Based on your review of the records, I
25 believe there were five officers on the scene,

1 would that be enough officers for them to stop
2 traffic on this road?

3 A. Yes. Absolutely.

4 Q. Is that a hard procedure to do?

5 A. Absolutely not.

6 Q. Is it a common police procedure, to stop
7 traffic?

8 A. Yes.

9 Q. Are officers trained in how to do that?

10 A. Yes.

11 Q. Instead of stopping traffic, the officers
12 sent a canine after Troy Goode. Based on your
13 review of the records and your experience as a
14 police officer for 33 years, is it reasonable to
15 send a canine officer after a suspect when you fear
16 that suspect might run into traffic?

17 A. No. I do not believe that would be a
18 reasonable act.

19 Q. Why not?

20 A. Once again, in this case with Mr. Goode, we
21 know he's not acting rationally or we know that it
22 is very common for people to have a fear of
23 animals, especially a fear of dogs. It is not out
24 of the realm to fear a police canine who we know
25 are trained to attack and bite people. Mr. Goode's

1 reaction to the canine would be very unpredictable,
2 and he -- there was no documentation previously by
3 the officers that Mr. Goode had made an attempt to
4 go into traffic. If that had happened, they didn't
5 speak of it, and they took no action prior to this
6 to stop that from occurring, so now the canine is
7 deployed.

8 If Mr. Goode fears that he's being
9 pursued by this canine, his pattern of running in
10 circles in this grassy area, he may divert from
11 that in attempting to elude a canine and then run
12 into traffic which has not been stopped at this
13 time.

14 Q. You were asked some questions about Officer
15 Scallorn's statement -- Officer Scallorn's
16 testimony that he said Troy Goode should get on the
17 ground and stop. Is that a sufficient verbal
18 warning that a person is being detained or under
19 arrest?

20 A. No, sir, it's not.

21 Q. Why not?

22 A. In most -- in most statutes that I'm aware
23 of, a person has to knowingly or intentionally
24 violate a law, so to prove that element, we would
25 have to show here for evading arrest, which is what

1 it was alluded to that Mr. Goode was doing at that
2 point in time, he would have to knowingly and
3 intentionally evade an officer attempting to arrest
4 him.

5 If Mr. Goode was not privy to that
6 information that he was being detained or arrested,
7 that that was what the officer's intention was, it
8 would not meet the onus of the offense to charge
9 him with resisting -- or evading arrest. So it's
10 hard to evade somebody that's attempting to arrest
11 you if you don't know they're attempting to arrest
12 you.

13 Q. Those words alone; get on the ground and
14 stop, do those indicate that a person is under
15 arrest?

16 A. No, not specifically.

17 Q. You were asked quite a few questions about
18 the use of restraint at certain times, and I want
19 to be clear on this. Is the evaluation of the
20 force being used a one-time evaluation, or is it a
21 continuing evaluation?

22 A. It is continuing. When we -- when we talk
23 about reasonable use of force, it's -- from -- from
24 my understanding of Graham versus Connor and how we
25 look at an officer's force as being reasonable, is

1 at the -- at the time the force was being used, at
2 that very moment, was it reasonable based on the
3 Graham factors? Was the person resisting? Were
4 they under arrest, and what was the severity of the
5 charge? Were they actively resisting the arrest?
6 Was that force used reasonable under those
7 circumstances when it was applied?

8 Knowing that there is a possibility of
9 death to an arrestee or detainee who has been
10 placed in a hog-tie or four-point position, that
11 that force is extreme, that restraint is extreme,
12 Mr. Goode was -- now there's some confusion whether
13 or not he was even under arrest. There was -- it
14 was stated earlier that Officer Scallorn was simply
15 trying to stop Mr. Goode from entering the roadway.
16 That's why he deployed the canine and evidently the
17 Taser, that he was not attempting to effect an
18 arrest. But then they immediately handcuffed him
19 and they never released him, but, you know, whether
20 his intent was to stop him from going into the road
21 or place him under arrest -- I kind of lost my
22 train of thought. Where were we going with this.

23 Q. I was asking about evaluation of the use of
24 force as a continuing evaluation.

25 A. So -- so now we've got Mr. Goode in these

1 restraints -- in this maximum restraint when they
2 had other options available. They handcuffed him.
3 They put the leg irons on him. They tie him
4 together. They get him in this four-point
5 restraint position, hog-tie position, was -- was
6 Mr. Goode at that point in time in any way
7 resisting? His behavior never changed from their
8 first observations up until the time of his death.
9 He was incoherent. He was not responsive. He was
10 either moving in some way, whether it was running,
11 flailing about, moving prior to or after -- during
12 or after being restrained. His -- his mannerisms,
13 his actions were consistent throughout this whole
14 event.

15 Once he was restrained and the
16 resistance ended, that necessity for that extreme
17 force, that four-point restraint, it no longer
18 exists; so therefore, the officers have to say,
19 okay, this is not an issue. This is not a threat.
20 We need to release him from this extreme position.
21 Especially aware of all of the other factors that
22 go along with being in this position, whether
23 they're scientifically verified or not, if you
24 believe this is a problem for us and we were
25 trained on this, it's important that we take notice

1 of this and evaluate what we've got going on here,
2 and the evaluation in this situation is constant
3 throughout his detention.

4 Q. Let's take it a couple of different times
5 then. Let's look at when the ambulance has arrived
6 and there's now a stretcher and the cot restraints.
7 When I say the cot restraints, you already
8 mentioned that they're about two-inch thick nylon
9 straps?

10 A. Right.

11 Q. At that point, was the continuing use of
12 the hog-tie a reasonable decision, a reasonable use
13 of force by these officers?

14 A. Absolutely not.

15 Q. Why is that?

16 A. Due to the known dangers of the hog-tie
17 position, even if we want to say the officers had
18 no other alternative before the ambulance showed
19 up, they did, but let's say they didn't, that this
20 was the only way they could effectively restrain
21 Mr. Goode, once the stretcher showed up, they had
22 another restraint device, and it is common protocol
23 to transport a prisoner that needs medical
24 attention on their back, secured to the stretcher,
25 with handcuffs and straps.

1 Once a stretcher was brought to
2 Mr. Goode's position with all the other officers
3 around, the leg restraints should have been
4 removed. He should have been removed from being on
5 his stomach, rolled over onto his side or his back,
6 lifted up in a team lift, placed on a stretcher
7 while officers were there to secure both arms,
8 uncuff one cuff, cuff him to the bed rail, cuff his
9 other hand to the opposite bed rail, secure his
10 body with all five restraints on the gurney, and
11 even if it was necessary, reconnect the leg irons
12 back through the gurney where even if he was
13 physically strong enough to damage one of the
14 restraints on the gurney, he wasn't going to get
15 through the leg restraint.

16 And I don't know any human being
17 that's can rip those five nylon belts off a gurney.
18 These are designed to transport very large patients
19 in a moving vehicle and keep them secured so they
20 don't get injured in transport. This would have
21 been the acceptable, common, traditional way of
22 transporting this person to the hospital.

23 Q. Is transporting or keeping a suspect in a
24 hog-tied position a common accepted use of force
25 from your experience as a police officer?

1 A. Absolutely not.

2 Q. I want to talk to you about another point
3 in time. Once Troy was in the hospital, was the --
4 well, let me step back from that for a second.
5 When a suspect is in the hospital, do the police
6 still have the, I guess, responsibility to make
7 sure that that suspect is safe?

8 A. Yes.

9 Q. Once Troy Goode was in the hospital, was
10 the continued use of the hog-tie there an
11 acceptable use of force?

12 A. It was absolutely not acceptable. It was
13 not reasonable, by any means.

14 Q. You mentioned that there are alternatives
15 to the hog-tie position. Let's talk about when you
16 first have a suspect who is unruly, agitated, what
17 alternatives do you have to control their legs
18 other than putting them in the hog-tie position?

19 A. Well, one very simple method is stacking
20 weight, and what this is, say you're in Mr. Goode's
21 position. They've got him on the ground. They
22 were able to quickly detain him on the ground, get
23 control of his arms, and put him in handcuffs.
24 That did not take long. That was not a significant
25 battle with Mr. Goode. At that point in time, they

1 say he becomes -- he was kicking and flailing his
2 legs. He's prone. He's facedown. All we have to
3 do is stack weight on his legs, hold him down.
4 There's five officers there to control this
5 gentleman's legs, so you can simply stack weight
6 holding his legs, securing his legs, where he's no
7 longer able to kick anyone. That's the first step.

8 Two, we can simply rotate him over
9 into a sitting position where his body is now at a
10 90-degree turn. We don't want to push him forward
11 where we're compressing his diaphragm. Once again,
12 it's restricting his breathing. We want to keep
13 him upright in a seated position with his legs out
14 in front of him. Now he's in a position where he's
15 at a 90-degree angle. To lift your foot up at that
16 point in time and try to kick somebody is almost
17 impossible.

18 We can employ the leg irons. We
19 can -- we can secure the feet. Whether he's prone
20 or whether he's on his side in a recovery position
21 or whether he's sitting, we can place the leg irons
22 on Mr. Goode and only keep them on his ankles, and
23 then an officer stands on the chain between his
24 legs to keep him from moving his feet. He's not
25 going to be able to lift a 200-pound officer off

1 the ground standing on the chains, so we can
2 physically control him that way without having to
3 put him in this -- what other people refer to as a
4 maximum restraint position because it's -- this is
5 such an extreme restraint, there were other ways
6 that were just as easy or easier to apply that
7 would not pose a danger to Mr. Goode.

8 Q. Besides the positional asphyxia issue, are
9 there any other reasons that police generally don't
10 hog-tie suspects?

11 A. Well, most officers don't carry leg irons.
12 It's not a -- unless you're in the business of
13 transporting prisoners and like in a jail facility,
14 so they're taking prisoners from a jail to trial,
15 moving them from one detention center to another in
16 a transport van, it's not common for most officers
17 to have leg irons in their -- in their duty bag.
18 They just aren't used. The common thing is hand
19 restraints. Like I said, it is so simple to
20 restrain other people's legs doing other techniques
21 like we just discussed that the leg irons for a
22 patrol officer is not a very -- very necessary
23 tool.

24 Q. There's been testimony in this case that
25 the leg irons were not standard issue for the

1 Southaven Police Department, but that the
2 department did know that they were in use and
3 accepted their use. If a police department accepts
4 the use of restraint mechanisms, do they have a
5 responsibility to train their officers in how to
6 use that restraint mechanism?

7 MR. HUSKISON: Object to the form.

8 A. Any tool a police officer can be provided
9 with, he should be trained in how to use. If
10 you're going to give him a gun, he should be
11 trained on how to use that gun. If we're going to
12 give him a patrol rifle or a shotgun, they need to
13 be trained in that weapon system. A Taser, there's
14 training for a Taser. OC spray, handcuffs, we
15 train them how to handcuff, so any -- any device,
16 tool, that we're going to deploy, especially on
17 citizens, the officers need to know and have
18 training on how to use that thing and use it
19 effectively and appropriately.

20 I believe in Chief Long's deposition,
21 he talks about the -- the leg restraints being used
22 and that the four-point restraint was authorized by
23 the department, but I didn't find it in their
24 policy anywhere. They had a policy regarding
25 handcuffing and specifically relates how people

1 would handcuff, that they do the handcuff behind
2 their back unless they're injured or elderly or
3 minors under a certain age, and that it was only a
4 temporary restraint, that they were not meant to be
5 a long-term restraint. But nowhere in their
6 restraint policy did it -- did it address leg irons
7 or the four-point restraint that I saw, that I was
8 aware of.

9 Q. (BY MR. MCCORMACK) Was the failure to
10 address the four-point restraint or leg irons
11 important to you in your review of this case?

12 A. With -- without the department creating a
13 policy and establishing guidelines for -- for this
14 use and appropriate training for this use, it tends
15 to allow for officers' personal interpretation.
16 One, what kind of restraint device is allowed?
17 Whether it's a style of leg irons like this,
18 whether it's a Velcro strap type of leg restraint
19 or plastic flex cuffs, there are very different
20 types of cuffs to be used to restrain someone's
21 legs. The policy doesn't -- lack of policy shows
22 lack of control over what the officers can and
23 cannot employ. It doesn't show any kind of
24 guidelines for its use, when it's appropriate to
25 use, how long it can be used, when it's

1 inappropriate to use. It doesn't show requirements
2 of any training.

3 Most departments, when they have,
4 like, even a Taser policy, for the use of the
5 Taser, the officers, the first thing they have to
6 do is go through the Taser certification course,
7 and that's one of the requirements before the
8 officer can even carry the Taser or employ the
9 Taser. So the -- most policies will address
10 required training to even use this tool, whether
11 it's a baton or OC spray or Taser or anything else.

12 The lack of that policy being in place
13 shows a total lack of control over the tool --
14 the -- the specific tool, how it's used, when it's
15 used, and any restrictions upon its use. Like, the
16 time it can be deployed, you know, that -- they
17 restrict the use of handcuffs and say it's a
18 temporary restraining device, not meant for
19 long-term restraint. So would we assume that leg
20 irons, being of the same type of restraint, be a
21 temporary device? And would temporary be an hour
22 and 27 minutes?

23 So in this case, Mr. Goode was kept in
24 this position with his leg irons for that period of
25 time prior to his death, so not having a policy and

1 not having training and control of this device is,
2 I believe, a major error on the part of the -- the
3 police department and their policymakers at that
4 point in time.

5 Q. You just mentioned some training. Did you
6 review the Mississippi Law Enforcement Training
7 Academy Manual?

8 A. Yes, I did.

9 Q. In that manual -- if I can find the page.
10 In that manual, it says there are two main areas of
11 concern in the application of handcuffs. One is
12 positional asphyxia. When a violator has been
13 arrested and handcuffed in a facedown position,
14 officers must get the suspect up to at least a
15 seated position as soon as possible. People who
16 remain on their stomachs for varying periods of
17 time will suffocate themselves due to their own
18 body weight.

19 My question for you is, is that
20 statement consistent with the training that you see
21 in other police departments throughout the country?

22 A. As far as the concern for positional
23 asphyxia, for prone restraint suspects, and the
24 need to immediately remove them or relieve them
25 from that position, yes. His exact verbiage may

1 not be the same across the country, but the --
2 the -- the concerns of the suspect suffering from
3 positional asphyxia were being prone and restrained
4 behind his back, yes, that is consistent.

5 Q. When you're dealing with this hog-tie
6 position -- well, have you ever seen it used in
7 your own career?

8 A. Yes.

9 Q. How often?

10 A. Once.

11 Q. One time in 33 years?

12 A. Yes.

13 Q. When that person was hog-tied, were they
14 placed into a recovery position?

15 A. No, they weren't.

16 Q. What did you do as the response to that?

17 A. Well, he was -- this incident occurred with
18 a prisoner of mine that was transported to the
19 Dallas County jail. This prisoner was driving a
20 stolen vehicle. I got in a foot pursuit with this
21 person, got in a fight with this individual. He
22 attempted to disarm me and take my gun. Got in a
23 second pursuit. Finally, was able to restrain this
24 person and get him handcuffed. This individual was
25 a very large gentleman. He was a college football

1 player at the time, transported him to jail without
2 leg restraints or any of this other stuff, simply
3 in handcuffs. Got him into the booking area in the
4 Dallas County jail.

5 At that point in time, handcuffs are
6 removed. The individual is being noncooperative
7 with wanting to be fingerprinted. We're trying to
8 fingerprint. This was back in the day when they
9 actually used real ink and cards and it's not all
10 computerized. And every time they tried to roll
11 his prints, he would smudge them. So we're going
12 to restrain him again, so we were going to put him
13 back in handcuffs so they could manually print him
14 in the handcuffs.

15 The fight was on. I had control of
16 the top half of his body. The jailers grabbed the
17 bottom half. He wound up on the floor, and the
18 next thing I know, I have 15 Dallas County jailers
19 coming in, and they are taking over the fight, and
20 they show up with -- we've got him handcuffed, and
21 they showed up with leg irons, which is something I
22 didn't carry. We didn't carry them. We didn't
23 have them. And they tied that one ankle. They ran
24 it up through there, and they caught that other
25 ankle, and before you knew it, they had this

1 gentleman hog-tied on the floor.

2 Q. So you weren't the one who applied that?

3 A. No, I did not.

4 Q. All right. Have you ever had the hog-tie
5 restraint applied to you personally?

6 A. Yes.

7 Q. Is it generally understood that the hog-tie
8 restraint using these shackles -- and I'm not
9 talking about using two sets of handcuffs. I'm
10 talking about using the shackles -- is painful for
11 the suspect who's in them?

12 A. It's extremely uncomfortable. It could be
13 very painful. Of course, the size of the suspect,
14 these handcuffs and leg irons don't get any bigger.
15 I mean, they don't -- so the bigger the suspect is,
16 the -- the more pressure put on the individual, the
17 more uncomfortable they become, but even for a
18 smaller person, a person of average size, you've
19 got metal on bone, basically, where we have
20 handcuffs pulling against the wrist. You have the
21 metal leg irons pulling against the ankles.

22 You have your arms back in an
23 unnatural position behind your back now being
24 lifted up away from the body putting more tension
25 across your upper chest. Your legs and feet are

1 going to pull backwards towards your hands. To get
2 any kind of relief whatsoever, you have to bend
3 backwards to relieve the pressure off the cuffs,
4 which is physically almost impossible, so you have
5 the pulling of the feet and the hands away from
6 each other causing pressure on the -- on the wrist
7 and the ankles from this metal digging into the
8 bone. Extremely very painful. There's a lot of
9 nerves through those areas, and there's very little
10 muscle tissue around there. It's just basically
11 compressing of nerve onto a bone, so it's very
12 uncomfortable here.

13 Of course, like I said, the larger the
14 individual is, the more difficult this is going to
15 be for this person to be in that position, so
16 there's nothing pleasant or comfortable about this
17 being hog-tied or in this four-point restraint.

18 Q. Now, you also mentioned that police
19 departments across the country generally don't
20 allow this to be used. Is that your understanding?

21 A. Yes, that is my understanding, that this
22 technique is very rare in law enforcement.

23 Q. And why is that?

24 A. Because of the whole -- the whole knowledge
25 of positional asphyxia, the numerous deaths in

1 custodies that involved the use of this hog-tying.
2 Like I said, when this became prevalent in the late
3 '80s, early '90s, there were numerous deaths in
4 custodies involving this position. Studies were
5 done. Whether -- whether the science is there to
6 articulate that doing this will cause someone to
7 die of positional asphyxia, I don't know. I don't
8 know if it does or not, but I know it -- it has
9 been shown as a contributing factor in numerous
10 deaths when this was applied.

11 So law enforcement, once they were
12 made aware of this, adopted -- generally adopted
13 different practices and standards and training to
14 avoid a situation. There were other restraints
15 available to the officers other than this hog-tying
16 or four-point restraint that was less dangerous to
17 the arrested person or to the person being
18 restrained, so this is not a widely accepted manner
19 of restraint.

20 There are agencies that in the past
21 used what was called a lateral vascular neck
22 restraint. Lay people would refer to it as a
23 chokehold. This restraint would put pressure on
24 the suspect's neck causing -- what they believe it
25 caused was a pooling of blood on the brain, which

1 would cool the brain, and would cause a person to
2 pass out allowing the officers to immediately get
3 them into handcuffs. It was a very short time, but
4 it gave them enough control temporarily to -- to
5 put the person in handcuffs.

6 There were numerous deaths where the
7 term excited delirium came up and came into law
8 enforcement. A lot of these deaths involved
9 struggles with law enforcement prior to, you know,
10 there was -- whether it was preexisting health
11 conditions with the suspects, use of illegal drugs
12 or alcohol, and then the struggle with law
13 enforcement, whether it was through an LVNR or any
14 other physical confrontation that the individuals
15 would suddenly die in custody shortly after that
16 struggle.

17 There was a time that they believed
18 that the LVNR, the lateral vascular neck restraint,
19 it was a contributing factor in those deaths, so
20 the same as with hog-tying, most agencies
21 restricted the use of the lateral vascular neck
22 restraint unless it was a deadly force situation,
23 so the same kind of science.

24 We -- we may not be able to show that
25 it is for certain that that lateral vascular --

1 lateral vascular neck restraint was a cause of that
2 individual's death, but there was enough
3 circumstances to say we need to reevaluate this.
4 Is there something else we can do as law
5 enforcement to restrain the individual without
6 using that to help save lives, and so the same --
7 basically, policies were applied to the LVNR as was
8 applied to hog-tying, whether -- whether it caused
9 a death or not, we think it might, so we're not
10 going to do it anymore.

11 Q. If you have two potential techniques, one
12 of which might cause death and one of which you
13 know will not, and they're both equally effective
14 in controlling the person, is it fair to say that
15 police departments should use the one that won't
16 cause death?

17 A. Well, that would be the reasonable
18 alternative, I would think.

19 MR. MCCORMACK: So do I. I think
20 that's all of the questions I have for you. I'll
21 pass you back over to Berk.

22 MR. HUSKISON: No more questions.

23 (End of proceedings at 12:20 p.m.)
24
25

1 STATE OF TEXAS)

2 I, Linda J. Webster, a Certified Shorthand
3 Reporter in and for the State of Texas, do hereby
4 certify that, pursuant to the agreement
5 hereinbefore set forth, there came before me on the
6 1st day of November, A.D., 2017, at 9:19 a.m., at
7 the offices of Charles W. Nichols, located at 61
8 East Lacy Street, in the City of Palestine, State
9 of Texas, the following named person, to wit:
10 DARRELL COSLIN, who was by me duly cautioned and
11 sworn to testify the truth, the whole truth and
12 nothing but the truth, of his knowledge touching
13 and concerning the matters in controversy in this
14 cause; and that he was thereupon carefully examined
15 upon his oath, and his examination was reduced to
16 writing under my supervision; that the deposition
17 is a true record of the testimony given by the
18 witness being waived pursuant to agreement of the
19 parties; and that the amount of time used by each
20 party at the deposition is as follows:

21	MR. KEVIN M. MCCORMACK	- 0 hours, 39 minutes;
22	MR. BERKLEY N. HUSKISON	- 2 hours, 10 minutes;
23	MS. AMANDA WADDELL	- 0 hours, 0 minutes;
24	MR. TREY JORDAN	- 0 hours, 0 minutes;
25	MR. RIC GASS	- 0 hours, 0 minutes;

1 MR. JOHN MARK MCINTOSH - 0 hours, 0 minutes.

2 I further certify that I am neither attorney or
3 counsel for, nor related to or employed by, any of
4 the parties to the action in which this deposition
5 is taken, and further that I am not a relative or
6 employee of any attorney or counsel employed by the
7 parties hereto, or financially interested in the
8 action.

9 I further certify that, before completion of
10 the deposition, the Deponent did not request to
11 review the transcript.

12 In witness whereof, I have hereunto set my hand
13 and affixed my seal this 16th day of November,
14 A.D., 2017.

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17
18 
19

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23 Cert. No. 8106

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